



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested return of double the \$912.50 security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the relevant evidence and testimony provided.

Issue(s) to be Decided

Is the tenant entitled to return of double the deposit paid?

Background and Evidence

The tenancy commenced on August 1, 2009. The tenant paid a security deposit in the sum of \$912.50. A copy of the tenancy agreement was supplied as evidence.

The parties agreed there was an inspection of the unit at the start of the hearing; the tenant said she did not receive a copy of the report.

The tenancy ended on May 30, 2016. The tenant submitted copies of text messages in which the landlord said the tenant could make arrangements with his spouse to complete an inspection. This was in response to the tenants' request for an inspection. The tenant made arrangements with the landlords' spouse and they went through the unit together. The tenant was told the unit was in good condition.

The landlord said that the next day he walked through the unit and determined there was damage. The landlord confirmed that on June 2, 2016 the tenants' forwarding address was received. The landlord confirmed that a claim has not been made against the deposit and that no portion of the deposit was returned to the tenant.

The tenant said she did not sign agreeing to any deduction from the deposit at the end of the tenancy.

Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit. The right to claim against a deposit can also be affected by the completion of condition inspection reports.

I find that the landlord received the tenants' written forwarding address on June 2, 2016; the date confirmed by the landlord.

The landlord has confirmed that the deposit was not returned and that a claim was not made against the deposit by filing an application for dispute resolution, in accordance with the Act.

Therefore, I find pursuant to section 38(6) of the Act that the tenant is entitled to return of double the \$912.50 security deposit paid to the landlord.

As the tenants' application has merit I find that the tenant is entitled to recover the \$100.00 filing fee from the landlord for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the tenant a monetary order in the sum of \$1,925.00. In the event that the landlord does not comply with this order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an order of that Court.

Conclusion

The tenant is entitled to return of double the security deposit.

The tenant is entitled to recover the filing fee cost from the landlord.

This decision is final and binding and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 05, 2017

Residential Tenancy Branch

