



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, OLC, FF

Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenants in which the Tenants applied for a monetary Order for money owed or compensation for damage or loss, for the return of the security deposit, for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement, and to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that on August 15, 2016 the Application for Dispute Resolution, the Notice of Hearing, and documents the Tenant submitted with the Application were sent to the Landlord, via registered mail, at the service address noted on the Application. The Tenant submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Landlord did not appear at the hearing. The documents were accepted as evidence for these proceedings and the hearing commenced in the absence of the Landlord.

On January 10, 2017 the Landlord submitted 3 pages of evidence to the Residential Tenancy Branch. The Tenant stated that these documents were mailed to her by the Landlord and that they were received on January 17, 2017 or January 18, 2017. As the Tenant acknowledged receiving the evidence it was accepted as evidence for these proceedings.

On January 27, 2017 the Tenants submitted 41 pages of evidence to the Residential Tenancy Branch. The Tenant stated that these documents were mailed to the Landlord on January 27, 2016. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 88 of the *Act* and they were accepted as evidence for these proceedings.

Issue(s) to be Decided:

Are the Tenants entitled to the return of security deposit?

Background and Evidence:

The Tenant stated that:

- the tenancy began on October 01, 2012
- a security deposit of \$600.00 was paid;
- this tenancy ended on May 31, 2016;
- the Tenants provided a forwarding address, in writing, on June 03, 2016 by leaving it in the door jamb of the Landlord's residence;
- the Tenants provided a forwarding address, in writing, on June 21, 2016 by leaving it in the door jamb of the Landlord's residence;
- the Tenants provided a forwarding address, in writing, on June 21, 2016 by mailing it to the Landlord's residence;
- the Tenants did not authorize the Landlord to retain any portion of the security deposit;
- the Landlord did not return any portion of the security deposit; and
- the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

Analysis:

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit or file an Application for Dispute Resolution claiming against the deposits.

On the basis of the undisputed evidence I find that the Landlord failed to comply with section 38(1) of the *Act*, as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution and more than 15 days has passed since the tenancy ended and the forwarding address was received.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1) of the *Act*, the landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenants double the security deposit.

I find that the Tenants' Application for Dispute Resolution has merit and that the Tenant is entitled to recover the fee paid to file this Application.

Conclusion:

The Tenant has established a monetary claim of \$1,300.00, which includes double the security deposit and \$100.00 in compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the

Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision 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: February 09, 2017

Residential Tenancy Branch