



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD

Introduction

This is the Tenant's Application for Dispute Resolution seeking return of the security deposit and compensation pursuant to Section 38(6) of the Act.

Both parties attended the Hearing and gave affirmed testimony.

It was established that the Tenant mailed the Notice of Hearing documents to the Landlord, by registered mail sent September 20, 2016. It was also established that the Tenant received the Landlord's documentary evidence.

Issue(s) to be Decided

Is the Tenant entitled to compensation pursuant to the provisions of Section 38(6) of the Act?

Background and Evidence

This tenancy ended on August 31, 2016. The Tenant testified that she gave the Landlord her forwarding address on August 31, 2016, when she attended for the condition inspection at the end of the tenancy.

The Landlord acknowledged receiving the Tenant's forwarding address in writing when she provided her notice to end the tenancy on August 22, 2016. He also acknowledged receiving it at the condition inspection on August 31, 2016.

The Landlord stated that he is agent for the Landlord, which is a corporate landlord. He stated that the corporate landlord has a postage meter in its office which weighs and stamps outgoing mail for the company. He stated that this meter is issued by the

Canada Post office. The Landlord testified that the Tenant's security deposit refund was issued and mailed, by registered mail, via the office postage meter on September 14, 2016. The Landlord testified that the corporate landlord is located in Vancouver. The Landlord testified that package was processed in Richmond at 3:47 a.m. on September 16, 2016. He submitted that in order for the package to be processed in Richmond that early in the morning, it must have been in the Vancouver post office for sorting by midnight, September 15, 2016.

The Tenant acknowledged receiving the full security deposit on September 20, 2016, by registered mail. She submitted that she did not receive it within 15 days of providing her forwarding address and the last day of the tenancy and therefore, she is entitled to double the amount of the security deposit from the Landlord.

Analysis

Section 38(1) provides:

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

In this case, the triggering date is August 31, 2016. In other words, the Landlord must repay the security deposit in full, or file against it, by September 15, 2016.

I find, on the balance of probability, that the Landlord mailed the security deposit refund to the Tenant by the end of the day on September 15, 2016. The Act does not require that a tenant "receive" the security deposit within 15 days, only that the Landlord must "repay" the security deposit within 15 days. It is generally accepted practice to find that a security deposit is repaid on the day that it is mailed to the tenant.

Conclusion

The Landlord has returned the security deposit, in full, to the Tenant within the 15 day time limit set out in the Act. The Tenant's Application for double the amount of the security deposit is dismissed.

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: March 30, 2017

Residential Tenancy Branch