



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD

Introduction

This hearing was convened in response to an application under the *Residential Tenancy Act* (the Act) by the tenant for an Order for the return of their security deposit. The tenant participated in the conference call hearing and the landlord did not. The tenant testified they served the landlord with the application for dispute resolution and Notice of Hearing by registered mail and that the tracking information provided indicates it was delivered October 18, 2016. The tenant provided a tracking number for the registered mail addressed to the landlord's residence.

I found that the landlord was appropriately served with notice of the claim against them and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the tenant entitled to the return of their security deposit?

Is the tenant entitled to the monetary amount claimed?

Background and Evidence

The tenant's undisputed evidence is as follows. The tenant paid a \$700.00 security deposit at the start of the tenancy of March 01, 2015 which the landlord retains in trust. The tenancy ended on September 01, 2016. The tenant claims the landlord did not provide a move out condition inspection. Subsequently, the tenant arranged for hand delivery of their forwarding address to the landlord in writing on September 07, 2016 for the return of the security deposit. The tenant testified they witnessed their friend DLS attending the dispute address at which the landlord was in attendance with their reported boyfriend; and, the friend handing the boyfriend their written forwarding address. The tenant testified that to date they have not received a response from the landlord nor received any of their deposit.

The tenant provided the friend DALS as a witness to this matter. Witness DALS provided the following under affirmed testimony in response to the tenant's questions and those of the Arbitrator.

DALS testified that on September 07, 2016 they and the tenant went to the dispute address. At the dispute address the landlord's boyfriend answered the door and received from DALS the tenant's forwarding address in a written note. DALS testified that in the exchange they viewed the landlord within the same room as the boyfriend, whom they recognized as the landlord from previous encounter. DALS confirmed the written note contained the tenant's forwarding address.

Analysis

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

I accept the testimony of the tenant's witness establishing they personally provided the landlord's boyfriend with the tenant's forwarding address with the landlord present at the same time. Pursuant to **Section 71(2)(b)** of the Act I find the landlord was sufficiently served with the tenant's forwarding address for the purpose of the Act on September 07, 2016

Section 38(1) of the Act provides that the landlord must return the deposits of the tenancy or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. I find the landlords received the tenant's forwarding address in writing on September 07, 2016. I find the landlords failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address. As a result, the Act prescribes that pursuant to **Section 38(6)** the landlords must pay the tenant *double* the amount of the security deposit and pet damage deposit as applicable.

The landlords currently hold the security deposit in the amount of \$700.00 and I find that they are obligated under **Section 38** to return *double* this amount. Therefore, I award the tenant **\$1400.00**.

I grant the tenant a **Monetary Order** under Section 67 for **\$1400.00**. If necessary this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

Conclusion

The tenant's application is granted.

This Decision is final and binding.

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: April 10, 2017

Residential Tenancy Branch