



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC

Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenant in which the Tenant applied for a monetary Order for money owed or compensation for damage or loss and for the return of the security deposit.

The Tenant stated that on November 26, 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 cited a tracking number 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.

Preliminary Matter #1:

This hearing was scheduled to commence at 1:00 p.m. on May 29, 2016. I inadvertently believed the hearing was to commence at 1:30 p.m. so I did not dial into the teleconference until 1:33 p.m.

Preliminary Matter #2:

Section 59(2)(b) of the *Act* stipulates that an Application for Dispute Resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings. I find that the Tenant's Application for Dispute Resolution does not provide full details of her claim for compensation for loss of quiet enjoyment.

Although the Tenant makes it clear on the Monetary Order Worksheet that she is claiming compensation for loss of quiet enjoyment, in the amount of \$200.00, she does not explain how her loss of quiet enjoyment has been breached. This is typically information that would be provided in the details of the dispute section of the Application or on the Monetary Order Worksheet.

Although the Landlord did provide a written submission that outlines a variety of issues with the tenancy, it is not clear that these issues relate to her claim for compensation for loss of quiet enjoyment. I find that proceeding with the Tenant's claim for loss of quiet enjoyment at this hearing would be prejudicial to the Landlord, as the absence of particulars makes it difficult, if not impossible, for the Landlord to adequately prepare a response to the claim.

I therefore decline to consider the Tenant's application for compensation for loss of quiet enjoyment. The Tenant retains the right to file another application for compensation for loss of quiet enjoyment.

Issue(s) to be Decided:

Is the Tenant entitled to the return of security deposit?

Background and Evidence:

The Tenant stated that:

- a security deposit of \$360.00 was paid;
- this tenancy officially ended on October 31, 2016;
- the Tenant provided a forwarding address, in writing, on October 29, 2016 by placing it through the Landlord's office door at the same time she returned the keys to the rental unit;
- on November 15, 2016 she spoke with the Landlord by telephone and he told her that she had provided him with two forwarding addresses;
- she did not provide him with two forwarding addresses;
- the Tenant did not authorize the Landlord to retain any portion of the security deposit;
- the Landlord did not file an Application for Dispute Resolution claiming against the security deposit; and
- the Landlord returned \$280.00 of the security deposit to her, by mail, on November 16, 2016.

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 full security deposit of \$360.00 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 Tenant double the security deposit.

Conclusion:

The Tenant has established a monetary claim of \$720.00, which is double the security deposit. The amount of the claim must be reduced by the \$280.00 that was returned to the Tenant on November 16, 2016, which leaves a balance owing of \$440.00.

On the basis of these calculations I grant the Tenant a monetary Order for \$440.00. 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: May 30, 2017

Residential Tenancy Branch