



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Craft Properties Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNSD,MNDC, FF

Introduction

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

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent on July 21, 2017 to the landlord via registered mail at the address noted on the application. A Canada Post tracking number was provided as evidence of service.

The tenant has submitted an amendment to the application to reflect the corrected postal code used for service to the landlord. The tenant had recorded the postal code supplied by the landlord on the move-out inspection report. When at the postal office the tenant discovered the postal code was incorrect. The postal code was then altered to the correct code for the landlord's street address.

The landlord refused to accept the mail; it was returned to the tenant marked as return to sender, unclaimed.

Section 90 of the Act deems service by mail on the 5th day after mailing. Therefore, I find that these documents are deemed to have been served effective July 26, 2017, in accordance with section 89 and 90 of the Act.

The landlord did not appear at the hearing.

Issue(s) to be Decided

Is the tenant entitled to return of double the deposit paid in the sum of \$950.00?

Background and Evidence

The tenancy commenced in December 2016. The tenant paid a security deposit in the sum of \$475.00. When the move-out condition inspection report was completed on June 29, 2017 the tenant provided a forwarding address. The tenant submitted a copy of the inspection report, completed by the agent for the landlord, including the tenant's forwarding address.

The tenant paid rent for the month of June 2017. The tenant vacated on June 25, 2017 and returned the keys on June 29, 2017.

On July 24, 2017 the tenant received a cheque from the landlord, in the sum of \$475.00. The cheque was issued on July 19, 2017. The envelope was stamped by Canada Post as having been mailed on July 21, 2017. The tenant was able to cash that cheque.

The tenant submits that the landlord was required to mail the security deposit within 15 days of the end of the tenancy. The landlord mailed the cheque outside of the 15 time limit. The tenant has claimed the equivalent of double the deposit as the landlord failed to comply with the Act.

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.

Pursuant to section 44(1)(f) of the Act I find that the tenancy ended effective June 30, 2017, as the tenant had a right to occupy the unit until that time. The landlord was then required to return the security deposit no later than July 15, 2017. From the evidence before me I find that the security deposit was not placed in the mail until July 21, 2017; outside of the 15 day time limit.

In the absence of the landlord, due to a failure to accept service of the hearing documents, I find that the landlord failed to comply with section 38(1) of the Act, by failing to return the security deposit within 15 days of June 30, 2017.

Therefore, I find, pursuant to section 38(6) of the Act that the tenant is entitled to compensation in the sum of \$475.00; representing the doubled amount of the security deposit paid.

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 \$575.00. 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.

The balance of the claim is dismissed as the tenant has previously received \$475.00.

Conclusion

The tenant is entitled to double the security deposit, in the sum of \$475.00.

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 15, 2018

Residential Tenancy Branch