



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for the return of double the security deposit pursuant to section 38 and 67 of the Act;
- authorization to recover her filing fee for this application from the landlords pursuant to section 72.

The tenant attended the hearing via conference call and provided undisputed affirmed testimony. The landlords did not attend or submit any documentary evidence. The tenant stated that both landlords were each served with the notice of hearing package via Canada Post Registered Mail on November 1, 2017, but that the package was returned by Canada Post as "unclaimed". The tenant provided the Canada Post Tracking numbers (noted on the style of cause of this decision) for both packages in her direct testimony as confirmation of service. The tenant also confirmed that the addressed used for service was based upon the address provided on the signed tenancy agreement.

I accept the undisputed affirmed evidence of the tenant and find that both landlords have been properly served with the notice of hearing package via Canada Post Registered Mail on November 1, 2017. Although the packages were returned by Canada Post as unclaimed, both landlords are deemed served as per section 90 of the Act.

Although the tenant stated that she had submitted documentary evidence, a review of the file shows no evidence or notations of submitted documentary evidence.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of double the security deposit and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant seeks a monetary claim of \$950.00 which consists of:

\$475.00	Return of Original Security Deposit
\$475.00	Compensation, Sec. 38(6), Fail to Comply

The tenant provided undisputed affirmed testimony that the tenancy ended on September 30, 2017 and that the landlords were provided her forwarding address in writing for the return of the \$475.00 security deposit on October 4, 2017 via Canada Post Registered Mail. The tenant stated that as of the date of this hearing the landlords have failed to return her \$475.00 security deposit. The tenant also provided details that the request for the return of the security deposit on October 4, 2017 via Canada Post Registered Mail was returned by Canada Post as unclaimed after attempted deliveries.

Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security and/or pet damage deposit(s) or file for dispute resolution for authorization to retain the security and/or pet damage deposit(s) within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award pursuant to subsection 38(6) of the Act equivalent to the value of the security and/or pet damage deposit(s).

In this case, I accept the undisputed evidence of the tenant and find that the landlords have failed to return the \$475.00 security deposit within the 15 day period following the end of tenancy on September 30, 2017 or October 4, 2017 the day the tenant provided her forwarding address in writing via Canada Post Registered Mail. I also accept the undisputed affirmed evidence of the tenant that as of the date of this hearing the landlords have failed to return any part of the \$475.00 security deposit or file an

application in dispute of its return as part of a claim in damages. As such, I find that the tenant has established her claim for return of double the security deposit of \$950.00.

Conclusion

The tenant is granted a monetary order for \$950.00.

This order must be served upon the landlords. Should the landlords fail to comply with this order, the order may be filed in the Small Claims Division of the Provincial Court of British Columbia.

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: June 01, 2018

Residential Tenancy Branch