



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSDS-DR

Introduction:

This matter was initiated as an ex parte Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act (Act)*.

The Tenant stated that on April 09, 2020 the Dispute Resolution Package and evidence the Tenant submitted to the Residential Tenancy Branch in April were sent to the Landlord, via registered mail, at the service address noted on the Application. 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)*. As the documents were properly served to the Landlord, the evidence was accepted as evidence for these proceedings.

The Adjudicator considering the ex parte application concluded that the direct request proceeding should be reconvened in accordance with section 74 of the *Act*. This participatory hearing was convened to consider the Tenant's application for a monetary Order for the return of the security deposit and/or pet damage deposit.

The Tenant stated that on April 17, 2020 the Notice of Hearing was sent to the Landlord, via registered mail, at the service address noted on the Application. In the absence of evidence to the contrary I find that this document has been served in accordance with section 89 of the *Act*, however the Landlord did not appear at the hearing. As the Notice of Hearing was properly served to the Landlord, the hearing proceeded in the absence of the Landlord.

The Tenant was given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. He affirmed that he would speak the truth, the whole truth, and nothing but the truth during these proceedings.

Issue(s) to be Decided:

Is the Tenant entitled to the return of security deposit?

Background and Evidence:

The Tenant stated that:

- this tenancy began on November 15, 2019;
- the Landlord did not arrange a time to jointly inspect the rental unit at the start of the tenancy;
- the unit was not jointly inspected at the start of the tenancy;
- the Landlord did not complete a condition inspection report at the start of the tenancy;
- a security deposit of \$500.00 was paid;
- this rental unit was vacated on February 28, 2020;
- the Tenant mailed his forwarding address to the Landlord on, or about, March 04, 2020;
- the Tenant did not authorize the Landlord to retain any portion of the security deposit;
- the Landlord did not return any portion of the security deposit; and
- the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

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 security deposit or filed an Application for Dispute Resolution and more than 15 days has passed since the tenancy ended and the forwarding address was received, in writing.

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, which is \$1,000.00.

Conclusion:

The Tenant has established a monetary claim of \$1,000.00 and I am issuing a monetary Order in that amount. In the event 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: June 02, 2020

Residential Tenancy Branch