



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a return of her security deposit, doubled; and
- recovery of the filing fee.

The tenant attended the hearing; however, the landlord did not attend.

The tenant stated she served the landlord with her application for dispute resolution and Notice of Hearing by registered mail on March 5, 2020. The tenant provided the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. That number is listed on the style of cause page in this Decision.

I accept the tenant's evidence that the landlord was served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present her affirmed testimony and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules).

Issue(s) to be Decided

Is the tenant entitled to a return of her security deposit, that it be doubled, and recovery of the filing fee?

Background and Evidence

The tenant said she has never been provided a written tenancy agreement by the original landlord/owner or the current landlord/owner.

The tenant said she moved into the rental unit on August 1, 2011, and vacated on February 1, 2020. The tenant said that the original landlord sold the residential property in approximately 2016, and he told her the security deposit was given to the new owner, the landlord here. The rental unit is in the basement of a home owned and occupied by the landlord in the upper unit.

The tenant said that she paid a security deposit of \$400 at the beginning of the tenancy, and despite promising to return it, the landlord has not done so.

The tenant said that she at first provided her forwarding address to the landlord in an email, and when she was informed this was not the proper way, she wrote a letter and sent it to the landlord by registered mail on February 12, 2020. The tenant provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing.

The tenant submitted that the landlord has not returned the security deposit.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Under section 38(1) of the Act, at the end of a tenancy, unless the tenant's right to a return of their security deposit or pet damage deposit has been extinguished, a landlord

must either repay a tenant's security deposit or file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy.

If a landlord fails to comply with the Act, then the landlord must pay the tenant double the security deposit and pet damage deposit, pursuant to section 38(6) of the Act.

In the case before me, the undisputed evidence shows that the tenancy ended on February 1, 2020, and that the landlord was deemed to have received the tenant's written forwarding address by February 17, 2020, the fifth day after it was sent by registered mail on February 12, 2020.

Due to the above, I find the landlord was obligated to repay the tenant's security deposit or make an application for dispute resolution claiming against the deposit by February 27, 2020. In contravention of the Act, the landlord retained the security deposit, without filing an application.

I therefore find the tenant is entitled to a return of her security deposit of \$400. I also find that the security deposit must be doubled.

Due to the above, I therefore find the tenant has established a total monetary claim of \$900, comprised of her security deposit of \$400, doubled to \$800, and the filing fee paid for this application of \$100, which I have awarded her due to her successful application.

I grant the tenant a monetary order in the amount of \$900 and it is included with this Decision.

Should the landlord fail to pay the tenant this amount without delay, the order may be served upon the landlord and filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is advised that costs of such enforcement are recoverable from the landlord.

Conclusion

The tenant's application for monetary compensation is granted as she is awarded a monetary order in the amount of \$900 as noted above.

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: July 3, 2020

Residential Tenancy Branch