



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on July 7, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlords return all or part of the security deposit.

The hearing was scheduled for 1:30pm on November 9, 2020 as a teleconference hearing. Only the Tenant appeared at the appointed date and time and provided affirmed testimony. No one appeared for the Landlords. The conference call line remained open and was monitored for 11 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Tenant and I were the only persons who had called into this teleconference.

The Tenant testified the Application and documentary evidence package was served on the Landlords by registered mail on July 20, 2020. Copies of the Canada Post registered mail receipts were submitted in support. Based on the oral and written submissions of the Applicants, and in accordance with sections 89 and 90 of the *Act*, I find that the Landlords are deemed to have been served with the Application and documentary evidence on July 25, 2020, the fifth day after their registered mailings. The Landlords did not submit documentary evidence in response to the Application.

The Tenant was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However,

only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Tenant entitled to an order that the Landlords return all or part of the security deposit, pursuant to section 38 of the *Act*?

Background and Evidence

The Tenant testified that the tenancy began on April 14, 2019 and ended on July 1, 2020. During the tenancy, rent was due in the amount of \$750.00 per month. The Tenant stated that he paid a security deposit of \$375.00 to the Landlords. The Tenant submitted a copy of the tenancy agreement in support of this testimony.

The Tenant testified that he served the Landlords with his forwarding address by registered mail on June 16, 2020. The Tenant stated that he did not consent to the Landlord retaining the security deposit and he has not yet received any amount of the deposit. As such, the Tenant is seeking double the return of his deposit.

Analysis

Based on the documentary evidence before me for consideration and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay deposits or make a claim against them by filing an application for dispute resolution within 15 days after receiving a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to comply with section 38(1) of the *Act*, and does not have authority under sections 38(3) or 38(4) of the *Act* to withhold any deposits, section 38(6) stipulates that a tenant is entitled to receive double the amount of the security deposit. These mandatory provisions are intended to discourage landlords from arbitrarily retaining deposits.

In this case, the Tenant provided the Landlord with his forwarding address by registered mail on June 16, 2020 before vacating the rental unit on July 1, 2020. As there is no evidence before me that the Landlords were entitled to retain all or a portion of the security deposit under sections 38(3) or 38(4) of the *Act*, I find pursuant to section

38(1) of the *Act*, that the Landlords had until July 16, 2020 to repay the deposit or make an application for dispute resolution. The Landlords did neither.

In light of the above, and pursuant to section 38(6) of the *Act*, I find the Tenants are entitled to an award of double the amount of the security deposit paid to the Landlords (\$375.00 x 2 = \$750.00).

Pursuant to section 67 of the *Act*, I find the Tenant is entitled to a monetary order in the amount of \$750.00.

Conclusion

The Landlords breached Section 38 of the *Act*. The Tenant is granted a monetary order in the amount of \$750.00. The order may be filed in and enforced as an order of the Provincial Court of BC (Small Claims).

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: November 09, 2020

Residential Tenancy Branch