



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD

Introduction

This application was brought by the tenant on December 16, 2010 seeking return of her security in double on the grounds that the landlords did not return it within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address.

As a preliminary matter, on April 26, 2011, the day before the hearing, the Residential Tenancy Branch received a letter from the landlords' agent advising that he would be at the hospital at the time of the hearing and, therefore, he requested an adjournment.

Under the provision of item 6.2(b), the landlord's agent was represented at the hearing by an employee who repeated the request for an adjournment and gave explanation that the agent had been experiencing potentially serious medical symptoms and that his attendance at the hospital was imperative.

The tenant objected to an adjournment on the grounds that she had made application for the hearing on December 16, 2010 and had been awaiting return of her security deposit since October 1, 2010.

I note that since the landlords were served with the Notice of Hearing by registered mail sent on December 23, 2010 and received December 27, 2010, the landlords have submitted no documentary evidence to the file challenging the tenant's claims.

I further note that the application deals with a very straight forward claim for return of the security deposit and I am hard pressed to contemplate any evidence the landlords agent might have presented that would influence the outcome. If the landlords felt the tenant owed them a sum of money, they would need would need to have made application for dispute resolution or to have obtained the tenant's consent to draw on the deposit. Neither of those contingencies appears to be the case.

If the landlords find the submissions of the tenant to be untruthful, they remain with a remedy in an application for a Review Hearing.

However, on the balance of probabilities, I find that a further delay would prejudice the tenant who has already waited for nearly seven months for return of her security deposit and the request for adjournment is denied.

Issues to be Decided

This application requires a decision on whether the tenant is entitled to a Monetary Order for the security deposit and whether the amount should be doubled.

Background and Evidence

According to the tenant, this tenancy began on or about August 1, 2009 and ended on October 1, 2010. Rent has varied but was \$2,000 per month at the conclusion of the tenancy and the landlords hold a security deposit of \$1,100 paid on June 5, 2009.

During the hearing, the tenant gave evidence that, having failed to receive return of her deposit following telephone requests, she wrote to the landlords on November 18, 2010 providing her forwarding address in writing and requesting return of the deposit. To date, she has had no reply.

The tenant stated that at the beginning of the tenancy, she had dealt with a former agent, but shortly after dealt with the landlords directly until the present agent was appointed some time toward the end of the tenancy.

Analysis

Section 38(1) of the *Act* provides that, within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address, the landlord must return the security deposit or make application for dispute resolution to claim upon it.

Section 38(6) of the *Act* states that a landlord who does not comply with section 38(1), "must pay the tenant double the amount of the security deposit..."

In this matter, I find as fact that the landlords did not make application to claim on the deposit and that they did not return it within 15 days of end of the tenancy or receipt of the tenant's forwarding address.

Therefore, I find that the tenant is entitled to a Monetary Order for return of the \$1,100.00 deposit in double for a total of \$2,200.00.

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order for **\$2,200.00**, enforceable through the Provincial Court of British Columbia, for service on the landlords.

April 27, 2011