Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute Codes</u>   MNSD, FF

<u>Introduction</u>

This was an application by the tenants for the return of their security deposit including double the deposit amount. The hearing was conducted by conference call. The tenants participated in the hearing. The landlord did not attend, although served with the application for dispute resolution and Notice of hearing by registered mail sent on July 23, 2011

<u>Issue(s) to be Decided</u>

Are the tenants entitled to the return of their security deposit including double the amount?

<u>Background and Evidence</u>

The rental unit is a strata title apartment in Vancouver. The tenancy began in 2006. The tenants paid a security deposit of $525.00 on December 19, 2006.

The tenancy ended on June 28, 2011. The tenants participated in a move-out condition inspection on that day. They agreed to $210.00 deduction from their security deposit and they provided their forwarding address in writing on the condition inspection report. According to the signed report the tenants were to receive a refund of their security deposit and accrued interest in the amount of $330.96.

The tenants did not receive payment within 15 days after they participated in the condition inspection and provided their forwarding address. On July 22, the tenants applied for dispute resolution to claim double the amount of their original deposit. They sent the documents to the landlord by registered mail on July 23, 2011. They later received a cheque from the landlord in the amount of $370.96. The cheque was mailed on July 27, 2011.

The landlord did not file an application for dispute resolution to claim the deposit.

Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

I am satisfied that the tenants provided the landlord with their forwarding address in writing when they completed the condition inspection report on June 28, 2011 and based upon the acknowledgement of the landlord at the hearing I find that the tenants served the landlord with documents notifying the landlord of this application as required by the *Act.*

The tenants' security deposit was not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act* and the doubling provision of section 38(6) therefore applies. I find that the amount of the security deposit to be doubled is the amount that the tenants acknowledged to be due to them on June 28, 2011 when they signed the condition inspection report and agreed to the deduction from their security deposit and interest. The doubled deposit amount is $661.92. The landlord paid the tenants the sum of $370.96 after the 15 day period for returning the deposit expired. The doubled amount less the payment made by the landlord is $290.96. I grant the tenants' application and award them the sum of $290.96. The tenants are entitled to recover the $50.00 filing fee for this application for a total claim of $340.96 and I grant the tenants a monetary order against the landlord in the said amount. This order may be registered in the 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: October 27, 2011.

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Residential Tenancy Branch