



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlords: MNSD and FF
Tenant: MNSD and MNDC

Introduction

This hearing was convened on applications by both the landlord and the tenants.

By application of August 7, 2012, the landlord sought authorization to retain the tenants' security deposit in set off against rent owed.

By application of August 16, 2012, the tenants sought a Monetary Order for return of their security deposit in double on the grounds that the landlord did not return it within 15 days of the end of the tenancy.

Despite having made application, and despite having been served with the tenants' Notice of Hearing, as testified by the tenant, the landlord's agents did not call in to the number provided to enable their participation in the telephone conference call hearing.

Therefore, the landlord's application is dismissed without leave to reapply and the hearing proceeded on the tenants' application.

As a matter of note, this tenancy was the subject of two previous hearings on applications by the tenant.

Following an ex parte hearing on June 6, 2012, the Dispute Resolution Officer issued an Interim Order that the tenancy, written under the *Hotel Keepers Act*, actually falls within the purview of the *Residential Tenancy Act*.

A decision on June 26, 2012 from a second hearing resulted in the Dispute Resolution Officer overturning a non-compliant rent increase from \$990 to \$1,500 per month and including an Order that the landlord comply with the *Residential Tenancy Act*.

Issue(s) to be Decided

This matter now requires a decision on whether the tenants are entitled to return of their security deposit and whether the amount should be doubled.

Background and Evidence

This tenancy began on March 19, 2012 and ended on July 31, 2012 after the tenants provided written notice on June 30, 2012, a copy of which was submitted into evidence. Rent was \$990 per month and the landlord holds a security deposit of \$200 paid at the beginning of the tenancy.

The tenants also submitted into evidence a copy of a letter served in person on the landlord on July 31, 2012 providing a forwarding address and requesting return of the security deposit.

Analysis

Section 38(1) of the *Act* allows a landlord 15 days from the latter of the end of the tenancy or receipt of the tenant's forwarding address to return security and pet damage deposits or file for dispute resolution to make claim against them unless the tenant has agreed otherwise in writing as per section 38(4).

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

Notwithstanding the landlord's failure to appear at the hearing, I do find that the landlord made application to claim on the deposit within 15 days of the end of the tenancy.

Therefore, while I find that the tenants may not claim double, they are entitled to return of the \$200 deposit and I find they are entitled to a Monetary Order for that amount.

Conclusion

The landlord's application is dismissed without leave to reapply.

The tenants' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia in the amount of \$200 for service on the landlord.

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 17, 2012.

Residential Tenancy Branch