



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD and FF

Introduction

This hearing was in response to an Application for Dispute Resolution, in which the Tenant applied for the return of the security deposit and to recover the filing fee from the Landlord for the cost of filing this application.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

The Tenant stated that on May 16, 2014 or May 17, 2014 the Application for Dispute Resolution, the Notice of Hearing, and documents the Tenant wishes to rely upon as evidence were sent to the Landlord, via registered mail. The Landlord acknowledged receipt of several documents from the Tenant, although he denies receiving:

- The document titled "exhibit #6"
- A copy of a Notice to End Tenancy
- Photographs
- Canada Post receipts.

The documents the Landlord acknowledged receiving were accepted as evidence for these proceedings. The documents he did not acknowledge receiving were not accepted as evidence for those proceedings. The Tenant was advised that if it became apparent that the documents the Landlord did not acknowledge receiving are particularly relevant, an adjournment would be considered. This hearing was concluded without the need for me to see the documents the Landlord did not acknowledge receiving.

The Landlord submitted no evidence in regards to these proceedings.

Preliminary Matter

The Landlord was prevented from giving evidence regarding the condition of the rental unit at the end of the tenancy, as the Landlord has not made a claim for compensation

for damage to the rental unit. The parties were advised that the Landlord has the right to file an Application for Dispute Resolution claiming compensation for damage to the rental unit.

Issue(s) to be Decided

Is the Tenant entitled to the return of security deposit?

Background and Evidence

The Landlord and the Tenant agree:

- that a security deposit of \$700.00 and a pet damage deposit of \$200.00 was paid
- that this tenancy ended on August 15, 2013
- that the Tenant did not authorize the Landlord, in writing, to retain the security deposit
- that the Landlord did not return any portion of the security deposit
- that the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

The Tenant stated that sometime in March or April of 2014 she sent the Landlord her forwarding address, via registered mail. The Landlord stated that he cannot recall if he received the forwarding address, as he has been travelling.

Analysis

On the basis of the testimony of the Tenant and in the absence of evidence to the contrary, I find that the Tenant provided the Landlord with her forwarding address, in writing, in March or April of 2014. I find that it was provided to the Landlord again in May of 2014, when the Landlord was served with this Application for Dispute Resolution.

Section 38(1) of the *Residential Tenancy Act (Act)* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit plus interest or make an application for dispute resolution claiming against the deposits. On the basis of the undisputed evidence, I find that the Landlord failed to comply with section 38(1) of the *Act*, as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution and more than 15 days has passed since the tenancy ended and the forwarding address was received.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1) of the *Act*, the Landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit and pet damage deposit.

I find that the Tenant's Application for Dispute Resolution has merit and that the Tenant is entitled to recover the fee for filing this Application.

Conclusion

The Tenant has established a monetary claim of \$1,850.00, which is comprised of double the security deposit/ pet damage deposit and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia 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 *Act*.

Dated: September 17, 2014

Residential Tenancy Branch

