



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested return of double the \$1,050.00 security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the landlord via registered mail on March 26, 2015. The tenant used the address where the landlord had carried out business during the tenancy. The tenants had delivered rent cheques to that address. The mail was returned marked by Canada Post as unknown. The tenants assumed the landlord no longer rented the office space.

On April 23, 2015 the tenants again served the landlord by sending the hearing documents to the address where the landlord lived. This was a multi-unit building that has a concierge service. During the tenancy the tenants had also delivered rent to the concierge who would accept the cheques on behalf of the landlord, who was an occupant of the building.

A Canada Post tracking number was provided as evidence of service. The mail was processed by Canada Post on April 23, 2015. A copy of the Canada Post tracking information supplied by the tenant showed that on April 24, 2015 the mail was redirected to the recipient's new address. On April 28, 2015 the mail was successfully delivered and accepted by C.P. The tenant believes C.P. is the landlord's partner.

Section 71(2) of the Act provides:

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

(a) that a document must be served in a manner the director considers necessary, despite sections 88 [how to give or serve documents generally] and 89 [special rules for certain documents];

(b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;

(c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

Therefore, as the tenant served the landlord to an address where he knew the landlord lived and, as the mail was successfully redirected to the landlord's new address, I find,

pursuant to section 71(b) of the Act that the landlord was sufficiently served with Notice of this hearing.

The landlord not appear at the hearing.

Issue(s) to be Decided

Is the tenant entitled to return of double the \$1,050.00 security deposit paid?

Background and Evidence

The tenancy commenced in November 2013, rent was \$2,100.00 per month. A security deposit in the sum of \$1,050.00 was paid. A tenancy agreement was not signed and inspection reports were not completed.

The tenant vacated on October 1, 2014.

On October 17, 2014 the tenant sent the landlord his forwarding address, via registered mail, to the place where the landlord had carried out business during the tenancy. The mail was accepted by the landlord on October 22, 2014. The tenant checked the Canada Post web site during the hearing and established the landlord had signed accepting this mail.

The tenant did not receive the deposit, less \$360.00 he had agreed to as a deduction for damaged doors.

The tenant supplied a copy of an October 14, 2014 email from the landlord to the tenant that set out multiple damages and costs for repair, referring the tenant to a lawyer.

On October 14, 2014 the tenant responded to the landlord, disagreeing with the damages.

Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

The amount of deposit owed to a tenant is also contingent on any dispute related to damages and the completion of move-in and move-out condition inspections. In this case there is no dispute related to damages before me. However, the tenant has agreed to a deduction in the sum of \$360.00 for damage to some doors.

I have no evidence before me that a move-in condition inspection or move-out condition inspection was completed as required by the Act. Further, I have no evidence that that landlord has repaid the deposit as required once the tenant's forwarding address was received by the landlord on October 22, 2014. The landlord had fifteen days to return the deposit, less any deduction agreed to in writing at the end of the tenancy. As

condition inspection reports were not completed the landlord had extinguished the right to claim against the deposit for damage to the rental unit.

Therefore, as the landlord failed to return the deposit to the tenant within fifteen days of October 22, 2014 I find, pursuant to section 38(6) of the Act that the tenant is entitled to return of double the \$1,050.00 security deposit paid to the landlord; less \$360.00 agreed to by the tenant.

I find that the tenant's application has merit and that the tenant is entitled to recover the \$50.00 filing fee from the landlord for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the tenant a monetary Order in the sum of for \$1,790.00. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The tenant is entitled to return of double the security deposit, less a \$360.00 deduction agreed to by the tenant

The tenant is entitled to recover the \$50.00 filing fee.

This decision is final and binding and 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: June 03, 2015

Residential Tenancy Branch

