



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes: MNSD & FF

Introduction:

This hearing dealt with the tenant's application for the return of double his security deposit plus interest pursuant to sections 38(1) & (6) of the *Act*. Both parties appeared for the hearing and were provided the opportunity to be heard and respond to the evidence of the other party.

Issue to be Determined:

Is the tenant entitled to the return of double his security deposit plus interest pursuant to sections 38(1) & (6) of the *Act*?

Background and Evidence:

This tenancy began on May 1, 2008 for the monthly rent of \$1,400.00 and a security deposit of \$700.00 paid on April 19, 2008. The tenancy ended effective October 31, 2008 after the tenant provided proper written notice. The landlord did review the rental unit with the tenant at the start and end of the tenancy; however, they did not complete written move-in or move-out condition inspections contrary to the requirements of the *Act*. The tenant provided the landlord with his forwarding address in writing on October 31, 2008.

The landlord stated that he was unable to process the return of the tenant's security deposit within the 15 days due to absences in the company. However, on receipt of the tenant's call he was able to process the tenant's security deposit on November 19, 2008 and sent out a portion of the tenant's security deposit on the same date. The landlord made deductions to the security deposit for general cleaning and carpet cleaning. The landlord did not have the written consent of the tenant to make these deductions.

The tenant confirmed that he received a cheque for the sum of \$505.28 on November 20, 2008.

Analysis:

There are multiple conditions and obligations a landlord must fulfill in order to retain a portion of or all of a tenant's security deposit. For example, a landlord is to conduct move-in and move-out condition inspections, in writing, with the tenant. Failure to do so results in the landlord extinguishing their right to retain the security deposit. Also, a landlord must have the written consent of a tenant to make any deductions from a security deposit or have an Order from a Dispute Resolution Officer to retain all or a portion of the security deposit.

Section 38(1) of the *Act* provides that a landlord has 15 days after the end of the tenancy, or receiving the tenant's forwarding address, to either return all of the security deposit or to file an application for dispute resolution to retain all or part of the security deposit. Section 38(6) of the *Act* states that if a landlord fails to comply with subsection (1) then the landlord must pay the tenant double the security deposit.

I find that the landlord extinguished their right to claim all or a portion of the tenant's security deposit by failing to conduct, in writing, the move-in and move-out condition inspection reports. I also find that the landlord did not have the written consent of the tenant to make any deductions from the security deposit and that the landlord failed to return the security deposit or file an application for dispute resolution within 15 days of the end of the tenancy. Therefore, I find that the landlord must pay the tenant double his security deposit plus interest and reimburse the tenant the \$50.00 filling fee paid for this application.

The tenant, after the fact, has consented to the deduction of \$125.00 for the carpeting cleaning. However, the tenant does not consent to the deduction made for general cleaning. On this basis, I find that the tenant is entitled to double his security deposit less the \$125.00 agreed to, or the sum of \$575.00.

I find that the tenant has established a total monetary claim of \$700.92 comprised of double the security deposit of \$575, \$6.20 in accumulated interest on the original security deposit, recovery of the \$50.00 filling fee less the sum of \$505.28 paid to the tenant on November 20, 2008.

I grant the tenant a monetary Order for the sum of **\$700.92**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion:

I grant the tenant's application having found that the landlord was in breach of the *Act* by failing to return the tenant's security deposit plus interest pursuant to section 38(1) of the *Act*.

Dated January 07, 2009.

Dispute Resolution Officer