



Dispute Resolution Services

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

Decision

Dispute Codes: MNDS, FF

Introduction

This matter dealt with an application by the Tenant for a monetary order for the return of her security deposit as well as to recover the filing fee for this proceeding.

Issue(s) to be Decided

1. Is the Tenant entitled to the return of all or part of her security deposit?

Background and Evidence

This month to month tenancy started on September 12, 2008 and ended on October 9, 2008. Rent was \$2,500.00 per month. The Tenant paid a security deposit of \$2,500.00 at the beginning of the tenancy. At the end of the tenancy the Landlords returned \$1,250.00 of the security deposit to the Tenant.

The Tenant sent her forwarding address in writing to the Landlords by registered mail which according to the Canada Post online tracking system, they received on October 29, 2008. The Tenant said she did not give the Landlords written authorization to keep the balance of her security deposit. The Tenant said the Landlords initially told her they were going to keep part of the remaining security deposit because the rental unit needed cleaning but then refused to return her calls.

The Landlords claim they withheld the security deposit because the Tenant did not give them adequate notice that she was ending the tenancy. The Tenant admitted she gave the Landlords only a few weeks notice she was moving out but claimed the Landlords told her she could move out when ever she wanted. The Tenant said the Landlords did not have authorization from the Strata to rent the unit (unless she was a relative) and a neighbor complained about her making noise. As a result, the Landlords decided not to re-rent the unit but to list it for sale.

The Landlords claimed they got authorization from the Strata to rent the unit sometime after the Tenant moved in.

Analysis

Section 19 of the Act says that a Landlord cannot require a Tenant to pay a security deposit that is greater than $\frac{1}{2}$ of the monthly rent. In accepting a security deposit of \$2,500.00, I find the Landlords contravened s. 19 of the Act.

Section 38(1) of the Act says that a Landlord has 15 days from the later of the end of the tenancy or the date they receive the Tenant's forwarding address in writing to either return the security deposit to the Tenant or apply for dispute resolution to make a claim against the deposit. If a Landlord fails to do either of these things and does not have the Tenant's written authorization to keep the security deposit, then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit to the Tenant.

I find that the Landlords received the Tenant's forwarding address in writing on October 29, 2008 and therefore had until November 13, 2008 to either return the Tenant's security deposit to her or to apply for dispute resolution to make a claim against it. I find that the Landlords did not do either of these things and as a result, they must return double the amount of the Tenant's security deposit to her plus accrued interest (of \$5.69). I also find that the Tenant is entitled to recover her \$50.00 filing fee for this proceeding.

Conclusion

A Monetary Order in the amount of **\$2,555.69** has been issued to the Tenant and a copy of the Order must be served on the Landlords. If the amount of the Order is not paid by the Landlords, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.