

Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

FF, MNSD

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. The parties gave affirmed evidence and this matter proceeded on its merits.

Issue(s) to be Decided

This is the Tenant’s application for a Monetary Order for return of the security deposit and pet damage deposit from the Landlord.

- (1) Is the Tenant entitled to a monetary order under Section 38 of the Act?

Background and Evidence

The parties agreed on the following facts:

- The Tenants paid the Landlords a security deposit in the amount of \$700.00 on January 1, 2008. In February or March of 2008, the Tenants paid a pet damage deposit in the amount of \$500.00 to the Landlords.
- The tenancy ended on December 31, 2008.

- Both parties have been provided with copies of each other's evidence. The Landlords agree that they were duly served with a copy of the Tenants' application and notice of hearing package, by registered mail.

Tenants' evidence

The Tenants provided the following evidence, orally and in their evidence package:

- The Tenants provided the Landlords with notice in writing of their new address on December 2, 2008.
- The tenancy ended on December 31, 2008. The Landlords did not return the security deposit or pet damage deposit within 15 days of the end of tenancy. The Landlords did not make an application claiming against the security deposit or pet damage deposit within 15 days of the end of tenancy.
- The Landlords and Tenants did not meet together to perform a move-out inspection. The Landlords performed their own move-out inspection. On December 18, 2008, the Landlords provided the Tenants with a copy of a Condition Inspection Report, but the Tenants did not agree with the Report. The Landlords invited the Tenants to meet on January 5, 2009, to perform a move-out inspection together, but the Landlords were not able to meet for the inspection at that time, due to medical reasons. No further appointment was made for a move-out inspection.
- The Tenants did not cause any damages to the rental unit, above reasonable wear and tear.

Landlords' evidence

The Landlords provided the following evidence, orally and in their evidence package:

- The Landlords have not initiated their own application for dispute resolution with respect to the Tenants' security deposit and pet damage deposit.

- The Tenants' damaged the Landlords' rental unit above normal wear and tear, including: damage to the fir floors; damage to the walls; and not leaving the rental unit in a reasonably clean condition.

Analysis

Section 38(1) of the Act provides 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** repay any security deposit or pet damage deposit to the tenant with interest, or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(6) of the Act provides 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 security deposit, pet damage deposit, or both, as applicable.

The Tenants were not able to provide the exact date that they paid the pet damage deposit to the Landlords, and therefore, for the purpose of calculating interest accrued on the pet damage deposit, I fix the date at March 31, 2008.

I grant the Tenants a monetary order in the amount of \$2,416.16, comprised as follows:

Double the security deposit	\$1,400.00
Double the pet damage deposit	\$1,000.00
Accrued interest on the \$700.00 security deposit	\$10.50
Accrued interest on the \$500.00 pet damage deposit	<u>\$5.66</u>
Balance owing by the Landlords to the Tenants	\$2,416.16

This is the Tenants' application for return of the security and pet damage deposits, and therefore I have not considered any claim the Landlords may have with respect to damages to the rental unit. The Landlords are at liberty to make their own application for dispute resolution regarding damages.

Conclusion

I grant the Tenants a monetary order for \$2,416.16 against the Landlords. This order must be served on the Landlords and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

March 16, 2009
