

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenants for the return of their security deposit and pet damage deposit plus compensation equivalent to those amounts due to the Landlords' alleged failure to return them within the time limits required under the Act.

Issues(s) to be Decided

1. Are the Tenants entitled to the return of their security deposit and pet damage deposit and if so, how much?

Background and Evidence

This tenancy started on November 1, 2007 and ended on or about August 12, 2009 when the rental unit was rendered uninhabitable due to sewage flooding. Rent was \$950.00 per month. The Tenants paid a security deposit of \$425.00 and a pet damage deposit of \$212.50 at the beginning of the tenancy.

The Tenants said the Landlords changed the terms of the tenancy agreement once the suite was repaired and in particular, they said they wanted more rent for the renovated suite and would no longer allow pets and therefore the Tenants could not move back into the rental unit. The Tenants said they gave the Landlords their forwarding address in writing on August 20, 2009 but the Landlords would not return their security deposit or pet damage deposit. The Tenants said after they gave the Landlords their forwarding address, they contacted the Landlords about the return of their deposits but the Landlords said they wanted compensation for a number of repairs which the Tenants did not believe they were responsible for. The Tenants admitted they were responsible for damages to a dryer drum but claimed that they did not give the Landlords written authorization to deduct any amounts from their security deposit or pet damage deposit.

The Landlords denied that the Tenants gave them their forwarding address in writing. The Landlords said that on August 20, 2009 the Tenants left a note at the rental unit address for the restoration company so they would know where to deliver the Tenant's belongings. The Landlords admitted said they made a note of the address and forwarded it on to their insurer, however, they argued that the Tenants never gave them a forwarding address for the return of their deposits. The Landlords admitted they did not do a move in or a move out condition inspection report.

Analysis

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

Sections 24(2) and 36(2) of the Act say that if a Landlord does not complete a move in or a out condition inspection report, the Landlord's right to make a claim against the security deposit for damages to the rental unit is extinguished. In other words, the Landlord may still bring an application for compensation for the damages, however, they may not offset those damages from the security deposit.

I find that the Landlords received the Tenants' forwarding address in writing on or about August 20, 2009. I also find that the Landlords knew this was the Tenants' forwarding address because they gave it to their insurer. I further find that the only reason the Landlords did not return the Tenants' security deposit and pet damage deposit was because they believed the Tenants were responsible for more damages than the cost to repair the dryer. The Landlords argued that they did not know that the Tenants still wanted their security deposit and pet deposit back until they were served with the application for dispute resolution. However, even after being served with the Tenants' application (which included the same forwarding address for them), the Landlords still made no attempt to return the security deposit or pet damage deposit.

In any event, I also find that the Landlords' were not entitled to keep the deposits because their right to do so (to pay for alleged damages to the rental unit) was extinguished under s. 24(2) and s. 36(2) of the Act because they did not complete a move in or a move out condition inspection report. I further find that the Landlords did not have the Tenants' written authorization to keep the security deposit or pet damage deposit. As a result, I find that pursuant to s. 38(6) of the Act, the Landlords must return double the amount of the security deposit (\$850.00) and double the amount of the pet damage deposit (\$425.00) to the Tenants with accrued interest of \$11.19 (on the original amount).

Conclusion

A Monetary Order in the amount of **\$1,286.19** has been issued to the Tenants and a copy of it must be served on the Landlords. If the amount 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.

This decision 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: March 31, 2010.

Dispute Resolution Officer