



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an application for Dispute Resolution by the tenant seeking the return of her security and pet deposits. The tenant gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form and make submissions to me. The landlord did not appear.

The tenant testified that the landlord was served with notice of this application and hearing by registered mail on June 1, 2010. Based on the evidence provided by the tenant, I am satisfied that the landlord was served with notice of this hearing by registered mail and I deem that the landlord received notice on the fifth day after the registered mail was sent pursuant to section 90(a) of the *Act*.

I questioned whether the tenant had received a copy of the evidence submitted by the landlord for this hearing. The tenant was not aware that the landlord had provided any evidence for the hearing. As a result, I have not considered the landlord's evidence I have no confirmation that it was served upon the tenant in accordance with the rules of procedure.

Issues(s) to be Decided

Has the landlord breached the tenancy agreement, *Act* and regulations entitling the tenant to the return of double her pet and security deposits?

Background and Evidence

The parties entered into an oral tenancy agreement which began on September 1, 2007 and ended on April 30, 2010. The monthly rent was \$900.00. The tenant paid security and pet deposits of \$900.00 on August 3, 2007.

The move out condition inspection was completed on April 26, 2010 and a copy of the report was provided in the tenant's evidence. There is no indication on the inspection

report that there was any damage to the unit or any cleaning required. However, the tenant received a letter dated May 6, 2010, to her forwarding address, from the landlord deducting \$409.50 from her original deposits. This sum was apparently to reimburse the landlord for fifty percent of the cost to have the rental unit painted.

On May 26, 2010 the tenant filed this application for Dispute Resolution seeking the return of double her security and pet deposits. In September 2010 the landlord sent the tenant another cheque for the sum of \$459.50. This sum was apparently provided in an attempt to settle this dispute. The tenant stated that the amounts provided by the landlord equal the outstanding security and pet deposits and reimburses the tenant for the filing fee paid for this application.

However, the tenant submits that she still entitled to the return of double her security and pet deposit due to the landlord's breach of the *Act*. The tenant stated that she provided the landlord with a letter on October 5, 2010 informing them that she intended to pursue this application.

Analysis

Based on the testimony and evidence provided, and on a balance of probabilities, I find as follows:

I grant the tenant's application for Dispute Resolution and Order that the landlord pay the tenant double her security and pet deposits pursuant to section 38(6) of the *Act*.

I accept the evidence of the tenant that the landlord received her forwarding address in writing and that the landlord did not file an application for Dispute Resolution requesting to retain the tenant's security and pet deposits.

Section 38(1) of the *Act* requires a landlord to either return a tenant's security deposit or to file an application for Dispute Resolution to retain the security deposit within 15 days of receiving the tenant's forwarding address in writing. Section 38(6) of the *Act* states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the security deposit.

Having granted the tenant's application, I also grant the tenant's request to recover the filing fee paid for submitting this application from the landlord. I find that the tenant has established a total monetary claim for the sum of **\$1,869.16**. This sum is comprised of double the security and pet deposits of \$900.00, accumulated interest of \$19.16 plus

the \$50.00 filing fee. From this sum I deduct the sum of \$969.16 which the landlord has already returned to the tenant.

Conclusion

I grant the tenant's application and have issued a monetary Order for the sum of **\$900.00**. This Order must be served upon the landlord. This Order may be filed with the Province of British Columbia Small Claims Court 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: October 18, 2010.

Dispute Resolution Officer