



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenant for compensation equivalent to the amount of her security deposit due to the Landlords' failure to return the deposit with the time limits required under the Act.

At the beginning of the hearing, the Landlord (E.H.) confirmed that the company name of the other Landlord named in this proceeding was not correct and he consented to amending the Tenant's application to correct the name.

Issues(s) to be Decided

1. Is the Tenant entitled to compensation and if so, how much?

Background and Evidence

This tenancy started on May 1, 2009 and ended on April 30, 2010 when the Tenant moved out. Rent was \$990.00 per month. The Tenant paid a security deposit of \$495.00 at the beginning of the tenancy. The Tenant said she gave her forwarding address in writing to the property owner's previous property manager on April 30, 2010 and also gave them written authorization to deduct \$60.00 for carpet cleaning and \$20.00 for window cleaning.

The Tenant contacted the former property manager for the owner of the rental property on May 16, 2010 about her security deposit was advised her that she would have to contact the current property managers (ie. the Landlords in this matter) who were now acting on behalf of the owner. The Tenant contacted the Landlord (E.H.) on May 17, 2010 who advised her that he could not return her deposit until he received further information from the previous agent for the owner. The Tenant said that after being told to contact about 4 different people she felt she was getting a "run around" from the Landlords so on May 19, 2010 she filed her application for dispute resolution.

The Tenant said that later in the day on May 19, 2010 one of the Landlords (E.H.) contacted her to advise her that he had a cheque for her, would deliver it to her personally and wanted her to sign a waiver. The Tenant said she did not agree to this and asked E.H. to mail it which he agreed to do. However, the Tenant said on May 20,

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2010 she received a call from E.H. who had arrived at her residence and wanted to deliver the cheque. The Tenant said she refused to meet with E.H. and he later mailed a cheque in the amount of \$415.00 to her.

The Landlords do not dispute any of these facts but claim that they became property managers for the owner of the rental property on May 1, 2010 and because they received little information from the owner's previous agent regarding the rental property, they were not in a position to return the Tenant's security deposit within the time limits set out under the Act.

Analysis

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date he receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit or to make an application for dispute resolution to make a claim against it. 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 then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit.

Section 1 of the Act defines a Landlord (in part) as "the owner of a rental unit and the owner's agent" and "the heirs, assigns, personal representatives and successors in title to those persons." Consequently, I find that as of May 1, 2010, the Landlords were the authorized agents of the owner of the rental property and were responsible for exercising their rights and responsibilities as of that day. However, this did not relieve the Landlords from complying with time limits for the return of security deposits (or to extend the time limits) under which the owner of the property and the Landlords' successors were required to comply.

I find that the previous agent for the rental property owner received the Tenant's forwarding address in writing on April 30, 2010 and that the Landlords (as agents of the owner) were under the same time limits under the Act to return the deposit when they became agents of the property owner on May 1, 2010. I also find that the Landlords returned \$415.00 to the Tenant on May 28, 2010 which represents the original security deposit amount less deductions authorized by the Tenant. However, as the Landlords did not return the Tenant's security deposit by May 15, 2010 and did not file an application for dispute resolution to make a claim against the deposit, I find that pursuant to s. 38(6) of the Act, that the Tenant is entitled to compensation of \$495.00.

As the Tenant has been successful in this matter, I also find that she is entitled pursuant to s. 72 of the Act to recover the \$50.00 filing fee for this proceeding.



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Conclusion

A monetary order in the amount of **\$545.00** has been issued to the Tenant 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: October 06, 2010.

Dispute Resolution Officer