



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD & FF

Introduction

This hearing dealt with the tenant's application seeking the return of double her pet and security deposits due to the landlord's failure to comply with section 38(1) of the *Act*. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

I have amended the tenant's application to change the landlord identified in the application. I change the landlord to reflect the landlord as identified on the tenancy agreement.

Issue(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

This tenancy began on July 1, 2009 for the monthly rent of \$1,100.00 and a security deposit of \$550.00 paid by the tenant on June 19, 2009. In October or November 2009 the tenant paid a pet deposit of \$550.00. The tenancy ended effective September 30, 2010.

The landlord and tenant did not conduct move in or move out condition inspection reports as required by the *Act*.

On September 29, 2010 the tenant provided the landlord with her forwarding address by e-mail. The tenant provided a copy of an e-mail from the landlord confirming that the forwarding address had been received.

On November 4, 2010 the tenant received a letter from the landlord returning only a portion of the tenant's pet and security deposits. The landlord provided the tenant with

copies of receipts supporting the deductions made against the tenant's deposits. The tenant confirmed that she did cash the cheque received from the landlord in the amount of \$365.04.

The landlord did not dispute the tenant's evidence and confirmed that the tenant's deposits were not returned in accordance with section 38(1) of the *Act*. The landlord stated that due to the condition of the rental unit at the end of the tenancy the landlord could complete the necessary paper work in time.

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. I accept that the landlord made deductions to the tenant's deposits without an Order from the Director.

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 **\$1,884.96**. This sum is comprised of double the security and pet deposits of \$1,100.00, the recovery of the \$50.00 filing fee less the \$365.04 already received from the landlord.

Conclusion

I grant the tenant's application and have issued a monetary Order for the sum of **\$1,884.96**. 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: January 18, 2011.

Residential Tenancy Branch