



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 was convened by way of conference call to deal with the tenants' application for double recovery of the security deposit and pet damage deposit, and to recover the filing fee from the landlords for the cost of this application.

The tenants attended the conference call hearing, gave affirmed testimony and provided evidence in advance of the hearing however, despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents by registered mail on October 19, 2010, the landlords did not attend the conference call hearing. The landlords provided an evidence package in advance of the hearing, however that evidence was not received by the Residential Tenancy Branch in accordance with the Residential Tenancy Branch Rules of Procedure and therefore is not considered in this Decision. All other evidence and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Are the tenants entitled to double recovery of the security deposit and pet damage deposit?

Background and Evidence

This fixed-term tenancy began on May 1, 2010 and expired on August 31, 2010. Rent in the amount of \$1,400.00 per month was payable in advance on the 1st day of each month and there are no rental arrears. On April 28, 2010 the landlord collected a security deposit from the tenants in the amount of \$700.00 and collected a pet damage deposit from the tenants on April 29, 2010 in the amount of \$500.00.

The tenants testified that this was a seasonal rental, and their mailing address did not change from before the tenancy began to date. Further, the tenants' mailing address is clearly printed on all cheques issued to the landlord.

The tenancy agreement, a copy of which was provided in advance of the hearing, states that the tenants agree to a charge of \$90.00 for carpet cleaning at the end of the tenancy which could be recovered by the landlords from the security deposit.

The tenants further testified that the landlord did not complete a move-in condition inspection report, and the rental unit was not clean when they took possession. The landlord agreed to reimburse the tenants for the cost of hiring a cleaning company to complete that service. The tenants provided a copy of a receipt in the amount of \$140.00 to Molly Maid which is dated May 12, 2010.

After the tenancy ended, the tenants emailed the landlord and copies of a series of email exchanges were provided in advance of the hearing. One of those emails from the tenants to the landlord is dated September 15, 2010 and clearly contains the address of the tenants. The tenants testified that they did not authorize any deductions from the security deposit or the pet damage deposit other than the \$90.00 for carpet cleaning which was agreed to in the tenancy agreement. The landlord subsequently returned \$610.00 to the tenants with a list of “deductions” that the landlord arbitrarily charged against the security deposit and pet damage deposit.

Analysis

The *Residential Tenancy Act* provides as follows:

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant’s forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Further,

38 (6) If a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and
- (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.



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In the circumstances, I find that the tenancy ended on August 31, 2010 and the landlords had the tenants' forwarding address from the beginning of the tenancy. I further find that the landlords had cheques from the tenants with the address clearly printed on all cheques received. The tenants also provided it again to the landlords in the email dated September 15, 2010. I further find that the tenants did not authorize the landlords to retain any portion of the security deposit or pet damage deposit other than \$90.00 for carpet cleaning at the end of the tenancy.

Further, the landlords did not apply for dispute resolution and did not return the full amount of the security deposit to the tenants within the 15 days provided for in the *Act*.

I also find that the landlords agreed to refund the tenants the cost of cleaning the unit at the beginning of the tenancy. I find that the tenants have established a claim for \$140.00 for cleaning the unit at the beginning of the tenancy, less the \$90.00 for carpet cleaning as agreed by the tenants in the tenancy agreement.

I further find that the tenants have established a claim for \$1,790.00, being double the amount of the deposits less the \$610.00 repaid by the landlords. The tenants are also entitled to recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants in the amount of \$1,890.00. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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 11, 2011.

Residential Tenancy Branch