



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit.

The Tenant said she served the Landlords with the Application and Notice of Hearing (the “hearing package”) by registered mail on October 18, 2010. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlords and the Tenant in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?

Background and Evidence

This tenancy started on or about August 20, 2009 as a month to month tenancy. There was contradictory evidence when the tenancy ended the Tenant said it ended on August 20, 2010 and the Landlord said it ended September 2, 2010. Rent was \$750.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$375.00 on or about August 20, 2009.

The Tenant said that she moved out of the rental unit on August 20, 2010 and mailed the Landlord a forwarding address in writing on September 17, 2010. The Landlord said they received the Tenant’s letter with her forwarding address on or about September 17, 2010. The Tenant said there was a walk through condition inspection done on move in, but no move in or move out condition inspection reports were completed and signed. The Tenant continued to say that she cleaned the unit before leaving and she asked the Landlord for part of her deposit back in her letter of September 17, 2010 to the Landlord. She said the Landlord said there was unpaid hydro, cleaning costs and missing items in the unit so the Landlord said they would not give her the security deposit back.

The Landlord said they submitted as evidence a list of cleaning costs, hydro bills and missing items from the unit that they paid for after the Tenant moved out and they believe the Tenant is responsible for. The Landlord said the total costs are; Hydro bills of \$155.35, cleaning costs of \$221.36 and missing items from the rental unit of \$60.00 for a total of \$436.71.

The Landlords said they did receive a forwarding address in writing from the Tenant on or about September 17, 2010 and they did not return the deposit or make an application with the *Residential Tenancy Branch* to retain the security deposit for unpaid hydro bills, cleaning costs or missing items in the rental unit.

The Tenant said she agrees that the Landlord should take the hydro bills in the amount of \$155.35 out of the security deposit and that the Landlord should return the remaining amount of the deposit.

Analysis

Section 38 (1) says that 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.

And Section 38 (6) says 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.

I find from that the Tenant did give the Landlord a forwarding address in writing on or about September 17, 2010. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenant's forwarding address in writing, nor did the Landlord apply for dispute resolution. Consequently, pursuant to section 38 (6)(1)(b) of the Act, I find for the Tenant and grant an order for double the security deposit of \$375.00 less the hydro bill of \$155.35 in the amount of $\$219.65 \times 2 = \439.30 .

As the Tenant was successful in this matter pursuant to section 67 of the Act a monetary order for \$439.30 has been issued to the Tenant.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$439.30 to the Tenant. The order must be served on the Respondents and is enforceable through the Provincial Court of British Columbia (small claims court) 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*.

Residential Tenancy Branch