



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This was an application by the tenant for a monetary order for the return of her security deposit including double the deposit amount. The hearing was conducted by conference call. The tenant and the landlord participated in the hearing.

Issue(s) to be Decided

Is the tenants entitled to the return of their security deposit including double the amount?

Background and Evidence

The rental unit is suite in a house in Langley. The tenancy began in 2008. Monthly rent was \$1,250.00 payable on the first day of each month. The tenant paid a security deposit of \$625.00 and a pet deposit of \$150.00 on or about January 1, 2008.

July 26, 2010 the tenant sent the landlord a letter by registered mail telling him that she intended to move out at the end of August. The tenant did not supply a copy of the letter. According to the tenant the letter contained her forwarding address and requested the return of her deposit. At the hearing the first said the letter did not contain the tenant's forwarding address. Later he said he was not sure whether or not her address was in the letter. He said that he responded to the tenant, but thought that he got her address from the envelope, not from the letter

The landlord did not return the security deposit and he did not file an application for dispute resolution to claim the deposit. He testified that he was a new landlord. The landlord said he did not know about the time limit for returning the deposit until he received the arbitration paper. He said that the tenant phoned and sent an e-mail about the deposit; he said that: "I said I had to deduct cleaning fees and some repairing fees from the deposit. But the amount of fees were not available to me until about one week after I received the arbitration paper." The landlord provided evidence of damage said to have been caused by the tenant and her pet and invoices for cleaning and repairs. The tenant denied that the landlord's claims were legitimate.

Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

The landlord responded to the tenant's requests for the return of her security deposit. I am satisfied that the tenant provided the landlord with her forwarding address in writing, and I find that the tenant served the landlord with documents notifying the landlord of this application as required by the *Act*.

The tenants' security deposit was not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act* and the doubling provision of section 38(6) therefore applies. I grant the tenant's application and award her the sum of \$1,561.18 inclusive of interest on the deposit amounts. The tenant is entitled to recover the \$50.00 filing fee for this application for a total claim of \$1,611.18 and I grant the tenant a monetary order against the landlord in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that Court.

The landlord is free to make his own claim against the tenant for damages to the rental unit and to claim for cleaning, repairs and loss of revenue.

Dated: February 04, 2011.
