



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call to deal with the tenant's application for a monetary order for return of all or part of the pet damage deposit or security deposit.

The tenant attended the conference call hearing, gave affirmed testimony and provided an evidence package 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 November 23, 2010 the landlord did not attend the hearing. All information and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of all or part of the pet damage deposit or security deposit?

Background and Evidence

This month-to-month tenancy began on June 1, 2010 and ended on October 22, 2010. Rent in the amount of \$500.00 per month was payable in advance on the 1st day of each month, and there are no rental arrears. On August 6, 2010 the landlord collected a security deposit in the amount of \$500.00 from the tenant, and still holds that security deposit in trust.

The tenant provided a copy of the tenancy agreement in advance of the hearing, as well as a copy of the move-in condition inspection report, but testified that no move-out condition inspection report was completed.

The tenant also testified that on September 30, 2010 she gave the landlord her written notice to vacate the rental unit on November 1, 2010 which also contained her

forwarding address. A copy of that notice was provided in advance of the hearing. She stated that on October 20, 2010 the landlord returned her notice with his own note written on the back stating that she had to move out by the next day, after having paid rent for the month of October. He left the note on the stairway to the rental unit. She further testified that the landlord agreed to let her stay for another day, and she actually vacated the rental unit on October 22, 2010.

The tenant testified that she has not consented to the landlord retaining any portion of the security deposit, and he has not returned any of it. The tenant claims double recovery of the security deposit and return of the unused portion of the rent paid for the month of October due to the landlord's insistence that she move out immediately.

Analysis

The *Residential Tenancy Act* states that the landlord has 15 days from the later of the date the tenancy ends or the date tenant provides his/her forwarding address in writing to return the security deposit and/or pet damage deposit in full or apply for dispute resolution claiming against the deposits. If the landlord fails to do either, the tenant is entitled to double recovery of the security deposit. In the circumstances, I find that the tenant provided her forwarding address in writing on September 30, 2010 and the tenancy ended on October 22, 2010. The landlord has not applied for dispute resolution to claim against the security deposit and has not returned it to the tenant, and therefore, the tenant is entitled to double the base amount of the security deposit.

I further find that the landlord has collected more money for a security deposit than permitted under the *Act*. A landlord may only collect half a month's rent for a security deposit and half a month's rent for a pet damage deposit. Further, a pet damage deposit can only be claimed against by the landlord for damage done by a pet. The tenancy agreement states that no money was collected for a pet damage deposit and a whole month's rent was collected for a security deposit, contrary to the *Act*. If the landlord has collected more than permitted under the *Act*, the tenant is entitled to reduce rent payable by the overpayment. In this case, the tenant has vacated the rental unit, and a rent reduction is not an option.

I further find that the landlord required the tenant to move prior to the effective date of the notice, and as such, I find that the landlord has collected more rent than he is entitled to, and the tenant has established that she is entitled to recover \$146.00 for that overpayment.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant in the amount of \$1,146.00. 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: March 22, 2011.

Residential Tenancy Branch