



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Tenants for the return of a security deposit and pet damage deposit plus compensation equal to the amounts of those deposits due to the Landlords' alleged failure to return the deposits as required by the Act and to recover the filing fee for this proceeding.

At the beginning of the hearing, the Landlords applied for an adjournment so that they could file a counter-application. The Landlords admitted that they were served with the Tenant's application 4 months ago and therefore I find that they have already had a reasonable opportunity to file their application. Consequently, I find that the Landlords are not entitled to an adjournment for this reason. The Landlords also applied for an adjournment as they claimed they were only able to serve their evidence on the Tenant and the Branch yesterday. The Tenant said she had not received the Landlords' evidence which they said was sent by registered mail. The Landlords' evidence was also not available as of the time of the hearing. Although the Landlords claim they were unable to obtain this evidence until just recently, I find that the evidence in question (regarding carpet cleaning) is not relevant to the Tenant's application in any event and as a result, I find that the Landlords are also not entitled to an adjournment for this reason.

Issue(s) to be Decided

1. Are the Tenants entitled to the return of their security deposit and pet damage deposit and if so, how much?

Background and Evidence

This tenancy started on July 20, 2010 and ended on September 28, 2010 when the Tenants moved out. Rent was \$1,900.00 per month payable in advance on the 20th day of each month. The Tenants paid a security deposit of \$950.00 and a pet deposit of \$500.00 at the beginning of the tenancy.

The Parties agree that the Tenants gave the Landlords their forwarding address in writing by e-mail on October 13, 2010. The Tenants claim that they also sent the Landlords their forwarding address by regular mail on that day (which the Landlords

dispute). The Parties also agree that the Tenants gave the Landlords written consent to deduct \$506.00 from their security deposit as pro-rated rent for the period, September 20 – 28, 2010. The Parties further agree that the Landlords deducted a further \$460.00 from the security deposit and pet damage deposit for carpet cleaning and general cleaning expenses and returned \$634.00 to the Tenants (which included an amount of \$150.00 to reimburse the Tenants for doing yard work).

Analysis

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date he or she receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit and pet damage deposit or to make an application for dispute resolution to make a claim against them. If the Landlord does not do either one of these things and does not have the Tenant's written authorization to keep the security deposit or pet damage deposit then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit and pet damage deposit.

I find that the Landlords received the Tenants' forwarding address in writing on October 13, 2010. I also find that the Landlords had the Tenants' written authorization to keep \$506.00 from the security deposit for rent but did not give the Landlords written authorization to retain any other amounts. I find that the Landlords returned the balance of the Tenants' security deposit (of \$444.00) and part of the pet deposit (\$40.00) but kept the balance of the pet damage deposit (\$460.00) without the Tenants' written consent. I further find that the Landlords did not make an application for dispute resolution to make a claim against that deposit. As a result, I find that pursuant to s. 38(6) of the Act, the Landlords must return the following amounts to the Tenants:

Summary:

Security deposit less Authorized Deduction (\$506.00):	\$444.00
Pet Deposit:	<u>\$500.00</u>
Subtotal:	\$944.00
Amount returned by LLs (less \$150.00 for yard work):	(<u>\$484.00</u>)
Unauthorized amount retained by Landlords:	\$460.00

Amounts due to Tenants:

Balance of Security deposit:	\$444.00
Pet Deposit:	\$500.00
Compensation payable under s. 38(6) for keeping	
All or part of a pet deposit without authorization:	<u>\$500.00</u>
Subtotal:	\$1,444.00
Less: Amount paid by Landlords:	(<u>\$484.00</u>)
Total amount owing:	\$960.00

As the Tenants have been successful in this matter, I find that they are also entitled pursuant to s. 72 of the Act to recover from the Landlords the \$50.00 filing fee for this proceeding.

Conclusion

A Monetary Order in the amount of **\$1,010.00** has been issued to the Tenants and a copy of it must be served on the Landlords. If the amount is not paid by the Landlords, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 15, 2011.

Residential Tenancy Branch