



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD

Introduction

This is the Tenant's application for return of a portion of the security deposit.

The parties gave affirmed testimony at the Hearing.

It was established that the Tenant served the Notice of Hearing documents upon the Landlord's agent, by handing the documents to him, on March 10, 2011.

Issues to be Decided

- Is the Tenant entitled to return of the security deposit pursuant to the provisions of Section 38 of the Act?

Background and Evidence

This tenancy began on September 1, 2010. Monthly rent was \$650.00, due on the first day of each month. The Tenant paid a security deposit and a pet damage deposit, each in the amount of \$350.00, at the beginning of the tenancy. There was no Condition Inspection Report completed that complies with the requirements of Section 20 of the regulations, at the beginning or the end of the end of the tenancy.

The Tenant testified that she gave the Landlord written notification of her forwarding address on March 10, 2010. The Landlord's agent acknowledged receipt of the Tenant's forwarding address on that date.

The Tenant testified that she was supposed to move out of the rental unit on April 1, 2011, but was five days late moving out. The Tenant acknowledged that she is

responsible for damaging some plastic blinds. The Tenant stated that she scrubbed the apartment clean at the end of the tenancy. The Tenant agreed that the Landlord could keep \$200.00 of the security deposit towards repairing or replacing the blinds and for overholding.

The Landlord's agent did not agree with the Tenant's calculations and disputed that \$200.00 would be sufficient to cover the Landlord's damage and loss or revenue.

The Landlord has not filed an application for dispute resolution with respect to the security deposit or the pet damage deposit.

Analysis

A security deposit and a pet damage deposit (the "deposits") are held in a form of trust by the Landlord for the Tenant, to be applied in accordance with the provisions of the Act.

Section 38(1) of the Act provides that (unless a landlord has the tenant's consent to retain a portion of the deposits) at the end of the tenancy and after receipt of a tenant's forwarding address in writing, a landlord has 15 days to either:

1. repay the deposits in full; or
2. make an application for dispute resolution claiming against the deposits.

The Landlord's agent testified that he received the Tenant's forwarding address in writing on March 10, 2010. The Landlord did not return the deposits within 15 days of receipt of the Tenant's forwarding address, nor did the Landlord file for dispute resolution against the deposits.

Section 38(6) of the Act provides that if a landlord does not comply with Section 38(1) of the Act, the landlord **must** pay the tenant double the amount of the deposits. Therefore, the Tenant is entitled to a monetary order, calculated as follows:

Pet damage deposit	\$325.00
Security deposit	\$325.00
Less \$200.00 that the Tenant agreed the Landlord could apply for damage to blinds and overholding	<u><-\$200.00></u>
Subtotal	\$450.00
X 2 pursuant to the provisions of Section 38(6) of the Act	<u> x 2 </u>
TOTAL	\$900.00

Conclusion

I hereby grant the Tenant a Monetary Order in the amount of **\$900.00** for service upon the Landlord. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: June 27, 2011.

Residential Tenancy Branch