



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call to deal with the tenants' application for return of all or part of the pet damage deposit or security deposit and to recover the filing fee from the landlord for the cost of this application. The tenants claim double the amount of the pet damage deposit or security deposit pursuant to Section 38 (6)(b) of the *Residential Tenancy Act*.

The landlord and one of the tenants attended the conference call hearing, gave affirmed testimony and were given the opportunity to cross examine each other on their testimony. The parties also provided evidence to the Residential Tenancy Branch and to each other prior to the hearing. All evidence and the testimony provided by the parties has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for return of all or part of the pet damage deposit or security deposit, or double the amount of the pet damage deposit or security deposit?

Background and Evidence

This fixed-term tenancy began on August 1, 2009 and expired on July 31, 2010. A copy of the tenancy agreement was provided in advance of the hearing, and it states that at the end of the fixed term, the tenants must move from the rental unit. Rent in the amount of \$1,550.00 per month was payable in advance on the 1st day of each month and there are no rental arrears. On August 1, 2009 the landlord collected a security deposit in the amount of \$775.00 as well as a pet damage deposit in the amount of \$350.00 from the tenants.

The tenant testified that a move-in condition inspection was conducted, but no formal inspection form was completed; the landlord wrote a number of things on the bottom of

the front page of the tenancy agreement, and some on the back, but when asked for the back page of what he had written, the landlord refused to provide it.

The tenant testified that she and her husband actually moved from the rental unit on July 15, 2010 and had asked the landlord to conduct the move-out condition inspection on July 26, 2010 because the tenants were going to Vancouver Island for a vacation on July 28, 2010. The landlord agreed and met the tenants at the rental unit on July 26, 2010, but the landlord refused to complete the inspection report.

The tenant provided her forwarding address in writing on July 28, 2010 in a letter which she testified was sent to the landlord by regular mail on July 28, 2010, and the tenants left for their vacation that day. On September 15, 2010 the tenant wrote the landlord another letter containing her forwarding address and sent it by registered mail because she still had not heard from the landlord and had not received either deposit back. Copies of both letters were provided in advance of the hearing. The tenant also testified that she received tracking information from Canada Post which confirms that the landlord picked up the registered mail on September 24, 2010 and provided a copy of that print-out. The tenant did not authorize the landlord to retain any portion of either of the deposits and the landlord has not returned any portion to the tenants. She further stated that she has not received an Application for Dispute Resolution from the landlord claiming against the deposits. The tenants claim double the amount of the security deposit and pet damage deposit.

The landlord testified that when the parties met for the move-out condition inspection on July 26, 2010 the male tenant assaulted him and threw him out of the house. The landlord went to the police station right away who advised him to put a note on the door of the rental unit to set up a key exchange with the female tenant only. The landlord took the advice of the police officer, and provided a photograph in advance of the hearing of the note he left on the door. The note says: "Shana: I meet you only @ RCMP Detachment (100 St) to exchange keys @ 12:00 noon July 31/10. Mohammed."

The landlord further testified that he did not receive any letters from the tenants containing their forwarding address. When asked about the mail he received by registered mail on September 24, 2010, the landlord responded that the keys were in the envelope only, and no letter, and testified that he received it on October 24, not September 24, 2010.

Analysis

I have reviewed the evidence provided by the parties, and I note that the print-out from Canada Post shows that an item was received by the landlord on September 24, 2010. Another document from Canada Post is also attached to the tenant's evidence which shows that the landlord signed for another document on October 24, 2010. The landlord testified that the letter mail he received on October 24, 2010 contained the keys only, and not a note from the tenants containing their forwarding address. The landlord had no explanation of what was contained in the letter mail he signed for on September 24, 2010, and the Canada Post print-out clearly shows that it was mailed to the landlord on September 15, 2010 which confirms the tenant's testimony. Therefore, I find that the landlord did receive the tenant's letter and forwarding address by registered mail on September 24, 2010.

The *Residential Tenancy Act* states that the landlord has 15 days from the later of the date the tenancy ends or the date the tenant provided a forwarding address in writing to return the security deposit and pet damage deposit or apply for dispute resolution claiming against those deposits. If the landlord does neither, the landlord is liable to the tenant for double the amount of the pet damage deposit and security deposit. I find, in the circumstances, that the tenancy ended on July 31, 2010 and the landlord received the tenants' forwarding address in writing on September 24, 2010.

The tenants are also entitled to recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants in the amount of \$2,300.00. 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: June 07, 2011.

Residential Tenancy Branch