



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD

Introduction

This hearing was convened by way of conference call to deal with the tenants' application for a monetary order for return of all or part of the pet damage deposit or security deposit, and for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement.

Both tenants attended the conference call hearing, however, despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents, the landlord did not attend. The male tenant testified that the landlord was served on March 10, 2011 by serving an adult at the residence of the landlord, who works for the landlord and resides with the landlord.

All testimony provided 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?

Are the tenants entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

The male tenant testified that this month-to-month tenancy began on January 1, 2011 and ended on January 8, 2011. The tenants paid the first month of rent. On December 18, 2010 the landlord collected a security deposit from the tenants in the amount of \$350.00.

He further testified that the tenancy agreement did not include a no smoking rule, and his wife smokes. The landlord told the tenants the day they moved in that smoking was prohibited. His wife then smoked outside. The landlord disallowed smoking inside or outside at the side of the building, but after the tenants moved in. The landlord gave the

tenants 2 verbal warnings stating that smoke was blowing in the windows. The tenants told the landlord they were moving out because they could not put up with the landlord's complaints.

The female tenant testified that the tenants provided the landlord with their forwarding address in writing when the application for dispute resolution was served on March 10, 2011 in a separate note. The tenants have not been served with an Application for Dispute Resolution by the landlord, they did not authorize the landlord to keep any part of the security deposit, and no part of the security deposit has been returned to the tenants.

Analysis

Firstly, with respect to service, I find that the tenants have complied with Section 89 of the *Residential Tenancy Act* by serving an agent of the landlord on March 10, 2011.

I am further satisfied that the tenants paid the landlord a security deposit on December 18, 2010 in the amount of \$350.00. The *Residential Tenancy Act* states that a landlord must return the security deposit or apply for dispute resolution within 15 days of the later of the date the tenancy ends or the tenants provide their forwarding address in writing. If the landlord fails to do either, the landlord must pay the tenants double the amount of the security deposit or pet damage deposit. In this case, the tenants moved from the rental unit on January 8, 2011 and provided their forwarding address in a note on March 10, 2011. The landlord has not applied for dispute resolution and has not returned any portion of the security deposit to the tenants. Therefore, the tenants are entitled to recovery of double the amount of the security deposit paid.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$700.00. 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 21, 2011.

Residential Tenancy Branch