



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the tenant for return the security deposit, money owed or compensation for damage or loss and recovery of the filing fee. Both parties participated in the face to face hearing.

Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

Background and Evidence

This tenancy began 10 2007 with monthly rent of \$600.00, the tenant paid a security deposit of \$300.00.

The tenant testified that on January 31, 2011 the landlord served the tenant with a 2 month notice for landlord's use of property so that the landlord's daughter could move in to the residence. The tenant stated he gave the landlord his forwarding address in writing on February 20, 2011 and vacated the rental unit on February 26, 2011. Both parties agreed that the landlord compensated the tenant 1 month's rent per the Act for the notice given.

On February 20, 2011 prior to the end of the tenancy and any move out inspections, the landlord had the tenant sign a note stating that the landlord would deduct costs for cleaning or damages from the tenants security deposit. This note does not specify damages or a deduction amount.

On February 27, 2011 the landlord and tenant both signed a note indicating that the landlord was satisfied with the condition of the rental unit with the exception of the paint on the windowsill.

The tenant's daughter who had been handling matters related to the tenancy for her father testified that she repeatedly requested that the landlord get a quote for the cost of repairs and that he provide this information to her or her father in writing. As the landlord had not returned the security deposit, on March 17, 2011 the tenant sent the landlord a letter by registered mail with his forwarding address requesting return of the deposit. On March 24, 2011 the landlord delivered an evidence package to the tenant at the address provided.

The tenant is seeking compensation in the amount of \$600.00 for return of double the security deposit.

The landlord testified that he did not know where to return the tenant's security deposit as the tenant gave him one address and then another. The landlord maintains that the tenant agreed to the landlord deducting the cost of repairs from the security deposit and at no time was it requested that a quote be gotten and that it be in writing. The landlord acknowledged that he was unsure of the process to claim against a security deposit and did not know he had to file a claim through this office.

The landlord admits that proper move-in and move-out inspection were not completed and that on the final day of the tenancy he did not thoroughly check the rental unit with the tenant.

The tenant stated that he initially thought that the landlord was not moving his daughter into the rental unit as the landlord was in a hurry to get the renovations completed. The tenant stated that he has no evidence that indicates that the landlord has not moved a family member in and did not act in good faith when issuing the tenant a 2 month notice for landlord's use of property. This portion of the tenant's application is hereby dismissed.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenant has met the burden of proving that they have grounds for entitlement to a monetary order for return of double the security deposit.

While the landlord had the tenant sign a note to claim against the security deposit, this note was signed prior to the tenancy ending and does not specify damages or a monetary amount. The landlord has also signed a note indicating that he has no issues with the condition of the rental unit.

Section 38(1) of the *Residential Tenancy Act* provides in part that if a landlord within 15 days of the end of the tenancy or receipt of the tenant's forwarding address in writing, the landlord must return the deposit or file a claim against it. If a landlord does not comply with section 38(1) of the Act, the landlord per section 38(6) of the *Residential Tenancy Act* must pay the tenant double the amount of the deposit.

Accordingly I find that the tenant is entitled to a monetary order for \$600.00 in return of double the security deposit.

The tenant is entitled to recovery of the \$50.00 filing fee.

The tenants claim for 2 months compensation for the landlord not acting in good faith on the notice is dismissed.

Conclusion

I find that the tenant has established a monetary claim for **\$600.00**. The tenant is also entitled to recovery of the \$50.00 filing fee. I grant the tenant a monetary order under section 67 of the *Act* for **\$650.00**.

If the amount is not paid by the landlord, 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: July 11, 2011.

Residential Tenancy Branch