



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD and FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of her security deposit and to recover the filing fee from the Landlord for the cost of filing this application.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The Landlord submitted documents to the Residential Tenancy Branch, copies of which were served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings. The Tenant submitted documents to the Residential Tenancy Branch, copies of which were served to the Landlord. The Landlord acknowledged receipt of the Tenant's evidence and it was accepted as evidence for these proceedings.

Issue(s) to be Decided

The issue to be decided is whether the Tenant is entitled to the return of the security deposit paid in relation to this tenancy and to recover the cost of filing this Application for Dispute Resolution.

Background and Evidence

The Landlord and the Tenant agree that the Tenant was residing in the rental unit when the Landlord purchased the residential property; that a Condition Inspection Report was not completed at the start of this tenancy; that the Tenant was paying monthly rent of \$1,150.00 when the Landlord assumed ownership of the property; that the Tenant paid a security deposit of \$575.00; that \$200.00 of that deposit was returned to a co-tenant prior to the end of the tenancy; that the rental unit was vacated on June 01, 2011; that the Tenant provided the Landlord with her forwarding address, in writing, on June 02, 2011; that the Landlord returned \$71.68 of the deposit to the Tenant on June of 2011; and that the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

The Landlord submitted a copy of the Condition Inspection Report, which was completed on June 01, 2011. The Tenant has signed this report to indicate that she agrees with the "amounts noted above" and that she authorizes the Landlord to deduct the "total charges" from her security deposit. The "total charges" portion of the Condition Inspection Report is blank.

Analysis

On the basis of the undisputed evidence presented at the hearing, I find that the Tenant paid a security deposit of \$575.00; that a portion of that deposit was returned prior to the end of the tenancy, leaving a balance of \$375.00; that the rental unit was vacated on June 01, 2011; that the Tenant provided the Landlord with a forwarding address, in writing, on June 02, 2011; that the Landlord returned \$71.68 of the security deposit; and that the Landlord did not file an Application for Dispute Resolution claiming against the deposit.

I find that the Tenant did not give the Landlord written authorization to retain any portion of her security deposit. Although the Tenant signed a Condition Inspection Report to indicate that she agrees that the Landlord can deduct the "total charges" from her security deposit, I find that the "total charges" portion of the Condition Inspection Report is blank. I therefore find that she has not agreed to a deduction in any specific amount.

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the (full) security deposit and/or pet damage deposit or make an application for dispute resolution claiming against the deposits. In the circumstances before me, I find that the Landlord failed to comply with section 38(1), as the Landlord has not repaid the all of the security deposit or filed an Application for Dispute Resolution.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1), the Landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit that was paid.

Conclusion

I find that the Tenant has established a monetary claim of \$800.00, which is comprised of double the security deposit that had not been returned by the end of the tenancy and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution. I find that this claim must be reduced by the \$71.68 that has already been returned by the Landlord.

I grant the Tenant a monetary Order in the amount of \$728.32. In the event that the

Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court 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: September 30, 2011.

Residential Tenancy Branch