



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit and pet deposit.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery on January 3, 2012. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenant in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit and pet deposit?

Background and Evidence

This tenancy started on October 1, 2008 as a fixed term tenancy with an expiry date of September 30, 2009 and then renewed as a month to month tenancy. The tenancy ended November 30, 2011. Rent was \$1050.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$550.00 on September 27, 2008 and a pet deposit of \$150.00 on February 1, 2009.

The Tenant said that she moved out of the rental unit on November 30, 2011 and gave the Landlord a forwarding address in writing on October 26, 2011 by registered mail. The Tenant said there was a move in condition inspection, but no move out condition inspection was done and she was told the move out walk through would be done by the Property Manager. The Tenant continued to say the Property Manager said he was no longer employed by the Landlord so he would not be doing the inspection. The Landlord said he contacted the Tenant by phone to do the inspection on December 16, 2011, but the inspection did not happen and no move out condition inspection was completed. The Landlord continued to say that there was damage to the unit and that is why he kept the Tenants security deposit and pet deposit. As well the Landlord said he did not apply to the Residential Tenancy Branch to retain the deposits he just kept them to cover his costs of the repairs to the unit. The Tenant said the damage the Landlord is claiming is damage that is indicated on the move in inspection report and the Tenant said she caused no damage to the unit.

The Landlord said he did not receive a forwarding address in writing from the Tenant on October 26, 2011 in the mail but he did have her address in her application and hearing package dated December 29, 2011. The Landlord continued to say he did not return the deposits nor did he make an application with the *Residential Tenancy Branch* to retain the security deposit and pet deposit for damages to the rental unit.

The Tenant said she cleaned the unit before he left and he believes that the damages the Landlord is claiming are due to normal wear and tear.

Analysis

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and
- (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

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I find from that the Tenant did give the Landlord a forwarding address in writing on October 26, 2011, by registered mail. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenant's forwarding address in writing, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenant and grant an order for double the security deposit of \$550.00 and double the pet deposit of \$150.00 plus accrued interest of \$4.22 on the deposits in the total amount of $\$700.00 \times 2 = \$1,400.00 + \$4.22 = \$1,404.22$.

As the Tenant was successful in this matter I further order the Tenant to recover the filing fee of \$50.00 for this proceeding from the Landlord. Pursuant to section 67 a monetary order for \$1,454.22 will be issued to the Tenant. This Monetary order represents double the security deposit and accrued interest in the amount of \$1,404.22 and the filing fee of \$50.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$1,454.22 to the Tenant. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims court) 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*.

Dispute Resolution Officer