



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit and for compensation for damage or loss under the Act, regulations or tenancy agreement.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by personal delivery on January 25, 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 in the Landlord’s absence.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?
2. Is there a loss or damage to the Tenant and if so how much?
3. Is the Tenant entitled to compensation for the loss of damage and if so how much?

Background and Evidence

This tenancy started on March 4, 2011 as a month to month tenancy. The tenancy ended December 21, 2011. Rent was \$650.0 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$325.00 on March 4, 2011.

The Tenant said that she moved out of the rental unit on December 20, 2011 as a result of a disagreement with the Landlord. The Tenant said the Police came to the rental unit and told her to leave the unit for 24 hours. The Tenant said she did this and when she spoke with the Landlord after the incident the Landlord told her not to come back to the rental unit. The Tenant said she tried to communicate by text messages to the Landlord but the Landlord did not reply to her. As a result the Tenant hired her friends to retrieve her belongings from the rental unit. The Tenant continued to say she gave the Landlord a forwarding address in writing on January 4, 2012. The Tenant said there was no move in or move out condition inspection reports completed. The Tenant continued to say that she asked the Landlord for her security deposit back. The Tenant said the Landlord said there were damages to the floor and wall in the rental unit so he was not going to return the security deposit.

The Tenant said as a result of the Landlord evicting her illegally she is making the following monetary claim:

Double the security deposit (2X \$325.00)	\$650.00
Rent Rebate from December 21 to 31, 2011	\$231.00
Rent incurred from December 21, 2011 to January 31, 2012	\$400.00
Moving expenses	\$150.00
Storage of Furniture	\$100.00
Cost of Address Change	\$ 55.00
New Security Deposit	\$285.00
Total	\$1,871.00

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

Residential Tenancy Branch
Office of Housing and Construction Standards

(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.

I find that the Tenant did give the Landlord a forwarding address in writing on January 4, 2012. 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 \$325.00 in the amount of $\$325.00 \times 2 = \650.00 .

Further as the Landlord did not end the tenancy in accordance to section 44 of the Act, I find the Tenant has established grounds to be awarded a portion of her monetary claim. I award the Tenant her monetary claim for the Rent Rebate from December 21 to 31, 2011 in the amount of \$231.00, additional rent costs from December 21, 2011 to January 31, 2012 in the amount of \$400.00, the Tenant's moving costs of \$150.00 and the storage costs the Tenant incurred due to the eviction of \$100.00. The Tenant has established grounds for a total claim for loss or damage of \$881.00 as a result of the Landlord not complying with the Act in regards to ending a Tenancy as stated in section 44 of the Act.

As for the Tenant's claim for \$55.00 for the address change and \$285.00 for the new security deposit these costs are part of the Tenant's new tenancy and the Landlord from the previous tenancy is not responsible for these items. The Tenant's claim for the cost of the address change and the new security deposit are dismissed without leave to reapply.

As the Tenant has been partially successful in this matter a Monetary Order for \$1,531.00 has been issued to the Tenant.



Dispute Resolution Services

Page: 4

Residential Tenancy Branch
Office of Housing and Construction Standards

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 \$1,531.00 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*.
