



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD

Introduction

This hearing was scheduled in response to the tenant's application for a monetary order reflecting the double return of a portion of the security deposit. Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began on January 1, 2011. Monthly rent of \$550.00 was payable in advance on the first day of each month, and a security deposit of \$275.00 was collected. The tenant testified that there was no move-in condition inspection report completed at the start of tenancy. The owner / landlord stated that he had minimal knowledge of the particulars of the tenancy, as it was the on-site manager's responsibility to manage the tenancy. The on-site manager was not present at the hearing and no documentary submissions were received by the Branch from either the on-site manager or the owner.

The tenant testified that he gave written notice sometime in June 2011 to end the tenancy effective July 31, 2011. He also testified that he provided the on-site manager with his forwarding address when he gave notice. While the tenant claimed that he and the on-site manager undertook a walk-through inspection of the unit at the end of tenancy, no move-out condition inspection report was completed. The tenant stated that no concerns about the condition of the unit were identified and / or brought to his attention by the on-site manager at the time of the walk-through, and he anticipated the full return of his original security deposit of \$275.00.

Subsequently, however, the tenant received only a partial reimbursement of his security deposit in the amount of \$225.00 by cheque dated August 15, 2011. On the face of the cheque it is noted that \$50.00 was withheld for “carpet.”

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section of the Act provides that the landlord may retain an amount from the security deposit if, at the end of tenancy, “the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant.”

In the absence of any written agreement, as above, this section of the Act provides that within 15 days of 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 security deposit or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit and must pay the tenant double the amount of the security deposit.

Based on the documentary evidence and testimony, I find that the tenant did not agree in writing that the landlord may withhold any portion of his security deposit. I further find that the landlord did not either repay the full security deposit or file an application for dispute resolution within 15 days after the tenancy ended on July 31, 2011.

In the result, I find that the tenant has established entitlement to compensation claimed of \$100.00, which represents the double amount of the security deposit withheld by the landlord (2 x \$50.00).

Finally, the attention of the parties is drawn to the following related sections of the Act:

Section 23: **Condition inspection: start of tenancy or new pet**

Section 24: **Consequences for tenant and landlord if report requirements not met**

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$100.00**. Should it be necessary, this order may be served on the landlord, filed in the 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: April 19, 2012.

Residential Tenancy Branch