



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD and FF

Introduction

This hearing was convened on the tenant's application of April 23, 2012 for return of his security and pet damage deposits in double on the grounds that the landlord did not return them within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address. The tenant also sought to recover the filing fee for this proceeding from the landlord.

Issue(s) to be Decided

This matter requires a decision on whether the tenant is entitled to return of his security and pet damage deposits, whether the amount should be doubled, and whether he is entitled to recover the filing fee from the landlord.

Background and Evidence

This tenancy began on October 1, 2011 and ended on February 29, 2012, although the tenant had given late notice and, therefore, paid the rent for March 2012. Rent was \$800 per month and the tenant stated that the security and pet damage deposits of \$400 each had been paid on September 23, 2011 and September 28, 2011.

During the hearing, the tenant submitted into evidence a receipt issued on the landlord's corporate receipt book dated September 23, 2011 acknowledging a \$400 "damage deposit" paid on September 23, 2011.

In addition, he submitted a copy of a government record of payment of \$400 for a "security deposit" dated September 28, 2011. However, the record does not show on whose behalf or to whom the payment was made.

The tenant stated that the building manager in place when the tenancy began had left the position abruptly due to an illness. The man who replaced her attended the hearing and gave evidence that he had not been able to find a record of either payment.

The tenant stated that after writing to the corporate landlord requesting return of the deposits, he had received a reply in April 2012 stating that the deposits would be returned if he provided proof of payment. He said that he had forwarded the receipts, but made the present application when he heard nothing further from the landlord.

Analysis

Section 38(1) of the *Act* allows a landlord 15 days from the latter of the end of the tenancy or receipt of the tenant's forwarding address to return security and pet damage deposits or file for dispute resolution to make claim against them unless the tenant has agreed otherwise in writing as per section 38(4).

Section 38(6) of the *Act* states that, if a landlord does not comply with section 38(1) of the *Act*, the landlord must pay the tenant double the amount of the deposits.

I find that the tenant has proven that he paid the receipted deposit of September 23, 2012 and I accept his evidence that the deposit was not returned.

Therefore, find that the tenant is entitled to return of that deposit in double.

I further find, as the application has succeeded on its merits, that the tenant is entitled to recover the \$50 filing fee for this proceeding from the landlord.

However, the receipt for the September 28, 2011 does not specify for whom and to whom the payment was made. As no copy of a rental agreement or any other corroborating evidence of that payment was submitted, I must find that the tenant has not met the burden of proof with respect to the second payment.

In hearing this decision, the landlord's representative made promise that the landlord will not be making application seeking compensation for damage to the rental unit.

Thus, I find that the tenant is entitled to a Monetary Order, calculated as follows:

For return of the security deposit (No interest due)	\$400.00
Filing fee	<u>50.00</u>
TOTAL	\$850.00

Conclusion

The tenant's copy of this Decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$850.00, for service on the landlord.

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: June 19, 2012.

Residential Tenancy Branch