



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened on the tenant's application of May 10, 2012 for return of his security and pet damage deposits 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.

Despite having been served with the Notice of Hearing sent by registered mail on May 10, 2012, the landlord did not call in to the number provided to enable his participation in the telephone conference call hearing.

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 and whether the amount should be doubled.

Background and Evidence

This co-tenancy began on July 1, 2011 under a one-year fixed term rental agreement. Rent was \$875 per month and the landlord holds security and pet damage deposits of \$437.50 each paid at the beginning of the tenancy.

During the hearing, the tenant gave evidence that, unbeknown to him, his co-tenant had failed to pay his half of the rent for October 2011 and was consequently left the tenancy pursuant to a 10-day Notice to End Tenancy for unpaid rent. The applicant tenant stated that he had paid the rent shortfall for October and on October 27, 2012 had advised the landlord that he could not afford to continue the tenancy on his own.

The applicant tenant stated that he paid the rent for November 2011, gave the landlord written notice on November 7, 2011 and vacated on November 30, 2011.

He stated that, toward the end of the tenancy, the new building manager stopped by and advised him that the rental unit was acceptably clean and that he would advise the landlord.

The tenant stated that his co-tenant had approved the deposits being returned to the applicant tenant who had paid the co-tenant's share of the rent for October and November of 2011.

The tenant also gave evidence that he had returned to the rental building to pick up mail shortly after moving out, and the rental unit was occupied.

The tenant said he had some difficulty contacting the landlord who was out of the country for a period, but when he did connect with him, the landlord stated he would not be returning the deposits because the tenant had given late notice.

The tenant provided the landlord with his forwarding address and requested return of the deposits by registered mail sent on January 25, 2012 and received on February 2, 2012.

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 accept the evidence of the tenant that he and his co-tenant paid security and pet damage deposits of \$437.50 each and that the deposits were not returned nor did the landlord make application to claim against them within 15 days of receipt of the tenant's forwarding address.

Therefore, I find that the tenant is entitled to return of that deposits in double and issue a Monetary Order, calculated as follows:

Return of the security deposit (No interest due)	\$ 437.50
Return pet damage deposit	437.50
To double the pet damage deposit as per s. 38(6) of the <i>Act</i>	437.50
TOTAL	\$1,750.00

Conclusion

The tenant's copy of this Decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$1,750.00**, for service on the landlord.

The tenant acknowledged that there was some amount outstanding for his utilities and that he will reduce his monetary claim accordingly when the landlord provides him with a statement of the amount.

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: July 04, 2012.

Residential Tenancy Branch