



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD and FF

Introduction

This hearing was convened on the tenants' application of June 22, 2012 seeking return of a portion of their security and pet damage deposits on the grounds that the landlord did not return the funds or make application to claim upon them within the latter of 15 days from the end of the tenancy or receipt of the tenants' forwarding address.

Issue(s) to be Decided

This matter requires a decision on whether the tenants are entitled to a Monetary Order for return of the portion of the security and pet damage deposits retained without consent or an order obtained through timely application by the landlord and whether the amount should be doubled.

Background and Evidence

This tenancy began on October 15, 2011 and ended on March 31, 2012 after the tenants gave written notice on February 29, 2012. Rent was \$1,000 per month and the landlord holds security and pet damage deposits of \$500, one paid on September 15, 2011 and the other paid on September 26, 2011.

During the hearing, the attending tenant gave evidence that she had provided the landlord with her forwarding address during the move-out condition inspection and submitted a copy of a letter to the landlord dated May 23, 2012, again providing the forwarding address and requesting return of the balance of the deposits.

The tenant gave evidence that she had agreed that the landlord could retain \$200 of the deposits to cover cleaning and damage.

The landlord stated that he had retained the balance of the deposits as the damage and losses had substantially exceeded the \$200 agreed to by the tenants.

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.

Consent Agreement

In the present matter, the parties arrived at the following consent agreement:

1. The tenant directed that she wished to waive the right to double the deposits granted under section 38(6) of the *Act*, and would be fully satisfied if the landlord returned the \$800 balance as the tenants had agreed plus the \$50 filing fee for this proceeding;
2. The landlord agreed to pay the \$850 to the tenants and agreed that this will constitute full and final settlement of all claims pertaining to the tenancy and he waives his right to make application for dispute resolution for damage or loss.

To perfect this agreement, the tenants are provided with a Monetary Order for the \$850.

Conclusion

The tenants' copy of this decision is accompanied by a Monetary Order for \$850, enforceable through the Provincial Court of British Columbia, for service on the landlord.

The parties agree that this constitutes full and final settlement of their claims pertaining to the tenancy and neither will bring further action against the other.

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: August 28, 2012.

Residential Tenancy Branch