



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing concerns the tenant's application for a monetary order as compensation for the double return of the security deposit / and recovery of the filing fee. Both parties participated and / or were represented 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

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the year-long fixed term of tenancy is from June 1, 2011 to May 31, 2012. Monthly rent of \$1,080.00 was due and payable in advance on the first day of each month, and a security deposit of \$540.00 was collected. While a copy is not in evidence, the tenant testified that a move-in condition inspection report was completed.

The tenant informed the landlord by way of e-mail dated April 4, 2012 of his intent to end the tenancy effective May 31, 2012, the date consistent with the end date of tenancy as shown on the tenancy agreement. Again, while a copy is not in evidence, the tenant testified that a move-out condition inspection report was completed on May 31, 2012. The tenant testified that he also provided the landlord with his forwarding address in writing on May 31, 2012. However, despite his request(s), the tenant has not yet been provided with a copy of the move-out condition inspection report.

The tenant further testified that he gave the landlord consent to retain \$200.00 from his security deposit for "cleaning and minor repairs." Accordingly, the tenant expected to receive a reimbursement of the balance of the security deposit of \$340.00 (\$540.00 - \$200.00). Indeed, later on June 25, 2012, the tenant received a cheque from the landlord dated June 17, 2012, in the amount of \$340.00. What concerns the tenant is that the landlord failed to return this amount within the 15 day period required by the

Act. In the result, the tenant seeks compensation reflecting the double return of the security deposit.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve at least a partial resolution.

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 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.

In the circumstances of this dispute, the landlord has not thus far filed an application for dispute resolution within 15 days after the end of tenancy, or at any time thereafter. Further, while the landlord's agent acknowledges that reimbursement of the balance of the security deposit was not made within 15 days after the end of tenancy, he testified that this was an unintentional oversight on the part of the landlord.

Based on the documentary evidence and testimony, I find that the tenant has established entitlement to reimbursement of double the security deposit in the total amount of \$1,080.00 (2 x \$540.00). I further find, however, that pursuant to the tenant's consent by way of his signature on the move-out condition inspection report, the tenant authorized the landlord to retain \$200.00 from the security deposit. In the result, the tenant's entitlement becomes \$880.00 (\$1,080.00 - \$200.00).

Pursuant to section 63 of the Act which speaks to the **Opportunity to settle dispute**, the tenant offered to accept a lesser reimbursement of \$750.00, in combination with recovery of the \$50.00 filing fee for a total of \$800.00. Accordingly, I find that the tenant has established a net entitlement to \$800.00, and I grant the tenant a monetary order under section 67 of the Act for this amount.

Finally, section 35 of the Act addresses **Condition inspection: end of tenancy**, and provides in part:

35(4) Both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations.

Further, pursuant to section 18 of the Regulation which speaks to **Condition inspection report**, the landlord must provide the tenant with a signed copy of the move-in condition inspection report “within 7 days after the condition inspection is completed,” and provide a signed copy of the move-out condition inspection report “within 15 days” after the later of the date the condition inspection is completed, and the date the landlord receives the tenant’s forwarding address in writing.

Following from the above, as the tenant claims he has not yet received a copy of the move-out condition inspection report, I hereby **ORDER** the landlord to FORTHWITH provide a copy of same to the tenant. Additionally, if a copy of the move-in condition inspection report has not been provided, the landlord is hereby also **ORDERED** to FORTHWITH provide the tenant with a copy.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$800.00**. 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: September 11, 2012.

Residential Tenancy Branch