



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call in repose to the tenant's application for the return of double the security deposit and to recover the filing fee from the landlord for the cost of this application.

The tenant and landlord attended the conference call hearing, gave sworn testimony. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Is the tenant entitled to recover the security deposit?

Background and Evidence

The tenant testifies that this month to month tenancy started on January 01, 2012 and ended on June 30, 2012. Rent for this unit was \$735.00 per month due on the first day of each month in advance. The tenant paid a security deposit of \$367.50 on or about December 23, 2011. The parties agree that they attended a move in and a move out condition inspection of the rental unit.

The tenant testifies that she gave the landlord her forwarding address in writing in person on June 30, 2012. The tenant testifies that she did not give the landlord permission to keep all or part of her security deposit. The tenant testifies that the

landlords did return the sum of \$245.41 by cheque dated July 19, 2012. The tenant has provided a copy of the landlords move out statement which shows the landlords retained \$122.09 for carpet cleaning. The tenant testifies that the carpets were left in a clean condition at the end of the tenancy.

The tenant testifies that the landlord has failed to return her security deposit and the tenant now seeks to recover double the deposit less the amount already returned.

The landlord does not dispute the tenants claim. The landlord testifies that head office was waiting for confirmation from BC Hydro to show that there were no outstanding utilities owed by the tenant before issuing a cheque for the security deposit. The landlord agrees that the sum of \$122.09 was retained for carpet cleaning. The landlord agrees the tenant did not give the landlord permission to keep all or part of the security deposit and agrees the landlord received the tenants forwarding address in writing on June 30, 2012.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on June 30, 2012. As a result, the landlord had until July 15, 2012 to return the tenants security deposit. I find the landlord did not return all the security deposit; therefore, I find that the tenant has established a claim for the

return of double the security deposit less the amount the landlord did return pursuant to section 38(6)(b) of the *Act*.

I also find the tenant is entitled to recover the **\$50.00** filing fee from the landlord pursuant to section 72(1) of the *Act*. The tenant is entitled to a Monetary Order for the following sum:

Double security deposit	\$735.00
Filing fee	\$50.00
Less amount already returned	(-\$245.41)
Total amount due to the tenant	\$539.59

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$539.59**. The order must be served on the respondent and is enforceable through the Provincial Court 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: October 23, 2012.

Residential Tenancy Branch