



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

DISPUTE CODES MNSD, FF

INTRODUCTION

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

1. Monetary order for return of pet damage or security deposit pursuant to Section 38; and
2. Recovery of the filing fee paid for this application pursuant to Section 67.

Both parties attended the hearing of this matter. I therefore accept that the landlord was properly deemed served with the Application for Dispute Resolution hearing package by way of registered mail.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

BACKGROUND AND EVIDENCE

The tenant testified that he vacated the premises on April 29 2012. The tenant testified that he provided his forwarding address to the landlord on May 3, 2012. The tenant says he received a letter from the landlord on May 26, 2012 in which the landlord said he was retaining the security deposit for cleaning and repairs of \$345.00 and indicating that the tenant owed the Landor d\$2.41. The tenant submits that he never agreed that the landlord could retain any porting of his deposit nor was he served with any Application for Dispute Resolution or Order from the Residential Tenancy Branch allowing the landlord to retain the deposit. The tenant therefore claims recovery of double the deposit as allowed under the Act.

The landlord acknowledges receiving the tenant's forwarding address on May 3, 2012 and agrees he has not returned the deposit and says he wrote to the tenant to advise him that he was keeping the deposit for damages and cleaning.

FINDINGS

Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit if the landlord believes there is cause.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the deposit (section 38(6)). If the tenant does not supply his forwarding address in writing within a year, the landlord may retain the deposit.

I find that the landlord has not returned the security deposit within 15 days of receipt of the tenant's forwarding address. The tenant is therefore entitled to a monetary order in amounting to double the deposit with interest calculated on the original amount only.

Having been successful in this application, I find further that the tenant is entitled recover the \$50.00 filing fee paid for this application.

Total monetary award payable by the landlord to the tenant:

Security Deposit paid on July 1, 2007	\$335.00
Interest on original amount paid from date security deposit paid to date of this order	7.59
Filing Fees	50.00
TOTAL MONETARY AWARD	\$727.59

The tenant is provided with an Order in the above terms and the landlord must be served with a copy of this Order as soon as possible. This is a final and binding Order as any Order of the Provincial Court of British Columbia.

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: November 20, 2012.

Residential Tenancy Branch