



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 for Dispute Resolution by the Tenant to obtain a Monetary Order for the return of double her security and pet deposits and to recover the cost of the filing fee from the Landlord for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the Tenant and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Should the Tenant be awarded a Monetary Order?

Background and Evidence

The Tenant submitted documentary evidence which included, among other things, copies of: her written statement; the tenancy agreement; a witness statement; and a letter written to the Landlord on July 10, 2012.

The parties agreed they entered into a fixed term tenancy agreement that began on March 1, 2012 and was set to switch to a month to month tenancy after February 28, 2013. Rent was payable on the first of each month in the amount of \$1,150.00. On March 1, 2012 the Tenant paid \$575.00 as the security deposit and \$200.00 as the pet deposit. No move in or move out condition inspections were conducted and no report

forms were completed and provided to the Tenant. The Tenant vacated the property on June 30, 2012.

The Tenant submitted that she requested the return of her deposits and provided her forwarding address to the Landlord, in writing, on July 23, 2012, by Canada Post and again in person on August 4, 2012.

The Landlord confirmed receipt of the letter and forwarding address on August 4, 2012. She confirmed that she has not returned the pet or the security deposit; she does not have an Order authorizing her to keep the deposits; she does not have the Tenant's written permission to keep the deposits; and she has not made an application to keep the deposits.

Analysis

The evidence supports the tenancy ended June 30, 2012, when the Tenant vacated the property and the Landlord confirmed receipt of the Tenant's forwarding address in writing on August 4, 2012.

Section 38(1) of the *Act* stipulates that if within 15 days after the later of: 1) the date the tenancy ends, and 2) the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security and pet deposits, to the tenant with interest or make application for dispute resolution claiming against the security deposit.

In this case the Landlord was required to return the Tenant's security and pet deposits in full or file for dispute resolution no later than August 19, 2012. She did neither.

Based on the above, I find that the Landlord has failed to comply with Section 38(1) of the *Act* and that the Landlord is now subject to Section 38(6) of the *Act* which states that if a landlord fails to comply with section 38(1) the landlord may not make a claim against the security and pet deposit and the landlord must pay the tenant double the security and pet deposit.

Based on the aforementioned I find the Tenant has met the burden of proof to establish her claim and I award her double her security and pet deposits plus interest in the amount of **\$1,550.00** (2 x \$575.00 + 2 x \$200.00 + \$0.00 interest).

The Tenant has succeeded with her application therefore I award recovery of the **\$50.00** filing fee.

I have included with my decision a copy of “A Guide for Landlords and Tenants in British Columbia” and I encourage the parties to familiarize themselves with their rights and responsibilities as set forth under the *Residential Tenancy Act*.

Conclusion

The Tenant has been awarded a Monetary Order in the amount of **\$1,600.00** (\$1,550.00 + \$50.00). This Order is legally binding and must be served upon the Landlord. In the event that the Landlord does not comply with this Order it may be filed with the Province of British Columbia 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: December 18, 2012.

Residential Tenancy Branch