



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Tenants for the return of double the security deposit and the filing fee for this proceeding.

The Tenants said they served the Landlord with the Application and Notice of Hearing (the "hearing package") in person and by registered mail on October 13, 2012. Based on the evidence of the Tenants, I find that the Landlord was served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenants in attendance.

At the start of the conference call the Landlord said the Tenants named the agents of the Landlord on their application. The Landlord said the Landlord is Argus Properties Ltd. The application was amended to correct the Landlord's name.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of double the security deposit?

Background and Evidence

The tenancy started on September 1, 2011 as a fixed term tenancy with an expiry date of August 31, 2012. Rent was \$1,020.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$510.00 on August 9, 2011. The tenancy ended on August 31, 2012 and the Tenants gave the Landlord their forwarding address in writing on August 24, 2012.

The Tenants said the Landlord returned \$288.58 of their security deposit on September 12, 2012. The Tenants said they agreed to a deduction of \$136.42 for blind cleaning, but they did not agree to a deduction of \$85.00 for furniture removal. The Tenants said the Landlord deducted the \$85.00 without their agreement. As a result the Tenants made this application and it was their understanding that because the Landlord did not return all of the security deposit they could apply for double the full amount of the security deposit in the amount of \$1,020.00 ($\$510.00 \times 2 = \$1,020.00$)

The Landlord said they agreed on the move out inspection report not to deduct the \$85.00 for the removal of the furniture, but a clerical mistake was made in the

accounting department and the \$85.00 was deducted from the return of the security deposit cheque. The Landlord said they offered the Tenants to correct the mistake and to pay the Tenants filing fee, but the Tenants did not respond to the Landlord's offer. The Landlord continued to say that they did pay for the furniture to be removed and the Landlord submitted the invoice of \$85.00 to prove it.

The Tenant was offered the settlement proposal of the \$85.00 and the filing fee of \$50.00 as full settlement of the dispute. The Tenant declined the offer and requested double the security deposit.

Analysis

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and
- (b) **must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.**

I find that the Tenants did give the Landlord a forwarding address in writing on August 24, 2012. The Landlord did not repay the full security deposit owing to the Tenants within 15 days of the end of the tenancy or 15 days after receiving the Tenants'

forwarding address in writing, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenants and I award the Tenants double the amount of the unpaid security deposit (\$85.00) in the amount of $\$85.00 \times 2 = \170.00 .

As the Tenants were successful in this matter I further order the Tenants to recover the cost of the filing fee of \$50.00 for this proceeding from the Landlord. Pursuant to section 38 and 67 a monetary order for \$220.00 will be issued to the Tenants. This Monetary order represents double the unpaid portion of the security deposit and the filing fee:

Double the unpaid portion of the security deposit	\$170.00
Filing Fee	\$ 50.00
Balance owing to the Tenant	\$220.00

Conclusion

I find in favour of the Tenants' monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$220.00 to the Tenants. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims 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: January 08, 2013.

Residential Tenancy Branch

