



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for unpaid rent, for authority to retain the tenant's security deposit and pet damage deposit and for recovery of the filing fee.

The landlord appeared; the tenant did not appear.

The landlord gave evidence that they served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on October 15, 2012. The landlord supplied the receipt and the tracking number of the registered mail. The landlord's evidence shows that the mail was sent to the forwarding address provided by the tenant on the condition inspection report and a check-out sheet.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to retain the tenant's security deposit and pet damage deposit, a monetary order and to recover the filing fee?

Background and Evidence

The landlord supplied evidence this one year, fixed term tenancy began on September 24, 2011, ended on September 30, 2012, monthly rent listed on the tenancy agreement was \$750.00 and the tenant paid a security deposit of \$375.00 and a pet damage deposit of \$200.00 at the beginning of the tenancy.

The landlord said that the tenant gave her timely notice to end the tenancy at the end of the fixed term, which was September 30, 2012.

The landlord explained that although monthly rent was listed on the tenancy agreement as \$750.00, the tenant received a rental incentive reducing her monthly rent to \$563.00. The landlord further explained that the tenant asked the landlord to use her security deposit and pet damage deposit as rent for the month of September 2012, and also failed to pay \$12.00 of the August 2012 monthly rent.

The landlord said that the tenant owed unpaid rent of \$575.00 and asked that they be able to retain the two deposits in satisfaction of that amount.

Analysis

Based on the undisputed oral and written evidence, and on a balance of probabilities, I find as follows:

Section 38(1) of the *Act* requires a landlord to either return a tenant's security deposit and pet damage deposit or to file an application for Dispute Resolution to retain the security deposit within 15 days of receiving the tenant's forwarding address in writing. In this case the landlord filed an application within 15 days of the end of the tenancy.

In the case before me, I accept the undisputed evidence of the landlord and I find the tenant had a rent deficiency of \$575.00 at the end of the tenancy.

I also find the landlord is entitled to recovery of the filing fee of \$50.00 as I find merit with the landlord's application.

I therefore find the landlord has proven a monetary claim of \$625.00.

I find the landlord retained the tenant's security deposit and pet damage deposit in the total amount of \$575.00 and that they are now allowed and directed to keep the tenant's security deposit and pet damage deposit in partial satisfaction of their monetary claim.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$50.00, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court.

Conclusion

The landlord has established a monetary claim of \$625.00, that they may retain the tenant's security deposit and pet damage deposit in total amount of \$575.00, in partial satisfaction and are granted a monetary order for \$50.00 for the balance due.

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* and is being mailed to both the applicant and the respondent.

Dated: January 10, 2013.

