



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 Tenant for the return of the security deposit and the filing fee for this proceeding.

The Tenant said she served the Landlords with the Application and Notice of Hearing (the "hearing package") by registered mail on November 29, 2012. The Tenant provided a tracking number and testified that the Landlords signed for the package. Based on the evidence of the Tenant, I find that the Landlords was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the absences of the Landlords.

Issues(s) to be Decided

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

Background and Evidence

This tenancy started on June 1, 2011 as a fixed term tenancy for 12 months with an expiry date of April 30, 2012. Rent was \$1,075.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$525.00 on May 19, 2011.

The Tenant said that she moved out of the rental unit on April 30, 2012 and gave the Landlord a forwarding address in writing on May 29, 2012 and again with the hearing package on November 29, 2012. The Tenant said there was a move in condition inspection was done, but the Tenant said no move out condition inspection report was completed. The Tenant continued to say that she cleaned the unit before leaving and she asked the Landlord for her security deposit back.

The Tenant continued to say the Landlord contacted her by email in mid May, 2012 and indicated the Landlord had used the security deposit to clean the rental unit and the Landlord said they were not going to return the deposit to the Tenant.

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 from that the Tenant did give the Landlord a forwarding address in writing on May 29, 2012 by way of a registered mail receipt. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenant's forwarding address in writing, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenant and I award the Tenant double the security deposit of \$525.00 in the amount of $\$525.00 \times 2 = \$1,050.00$.

As the Tenant has been successful in this matter I further order the Tenant to recover the cost of the filing fee of \$50.00 for this proceeding from the Landlords. Pursuant to section 38 and 67 a monetary order for \$1,100.00 has been issued to the Tenant. This Monetary order represents double the security deposit and the filing fee for this proceeding as shown below:

Double the security deposit	\$1,050.00	
Filing fee	\$ 50.00	
Sub Total		\$1,100.00
Balance owing to the Tenant		\$1,100.00

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38, 67 & 72 of the Act, I grant a Monetary Order for \$1,100.00 to the Tenant. The order must be served on the Respondents 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: March 04, 2013

Residential Tenancy Branch

