Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   MNSD

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery on December 28, 2012. Based on the evidence of the Tenant, 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 parties in attendance.

Issues(s) to be Decided

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

Background and Evidence

This tenancy started on August 1, 2012 as a month to month tenancy. The tenancy ended November 30, 2012. Rent was $1,500.00 per month payable in advance of the 1st day of each month. The Tenants paid a security deposit of $700.00 on July 20, 2012.

The Tenant said that she moved out of the rental unit on November 30, 2012 as a result of a 1 Month Notice to End Tenancy for Cause. The Tenant said she gave the Landlord a forwarding address in writing on December 4, 2012 and again on December 20, 2012. The Tenant said there was no move in condition inspection done and 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 Landlord said the Tenants left the rental unit without paying some utility bills so the Landlord said she retained the security deposit to cover her costs. The Landlord said she has paid the bills and she gave a copy of all the bills to the Tenants and the Landlord submitted copies of the bills in her evidence package. The Landlord said she has not returned any portion of the security deposit to the Tenants and she has not made an application for the unpaid utility bills.

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 accept the Tenant's testimony that she gave the Landlord a forwarding address in writing on December 4 and December 20, 2012. 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 by January 4, 2013. Consequently I find for the Tenants and grant an order for double the security deposit of $700.00 in the amount of $700.00 X 2 = $1,400.00.

As the Tenant was successful in this matter; pursuant to section 67 a monetary order for $1,400.00 has been issued to the Tenants. This Monetary order represents double the security deposit in the amount of $1,400.00.

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 $1,400.00 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: March 19, 2013

_____
Residential Tenancy Branch