



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Performing Arts Lodges
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF, O

Introduction

This was an application by the tenant for the return of his security deposit including double the deposit amount. The hearing was conducted by conference call. The tenant participated in the hearing and was represented by his legal advocate. No one participated in the hearing on behalf of the landlord although the tenant served the landlord with the Notice of Hearing, the application for dispute resolution and the documentary evidence and submissions sent by registered mail to the landlord's address on December 20, 2012.

Issue(s) to be Decided

Is the tenant entitled to the return of his security deposit including double the amount?

Background and Evidence

The rental unit is an apartment in Vancouver. June 1, 2006. Monthly rent was \$1,000.00 payable on first day of each month. The tenant paid a security deposit of \$500.00 and a pet deposit of \$250.00. The tenant's cheque dated April 27, 2006 was returned marked "NSF". The tenant submitted evidence that he replaced the bounced cheque with a cash payment to the landlord on June 11, 2006. He submitted proof that he withdrew \$500.00 from his bank on June 9, 2006 and he provided a copy receipt dated July 11, 2006 recording the payment of \$500.00 as a security deposit.

The tenancy ended on March 1, 2012. The tenant participated in a move-out condition inspection. He signed the condition inspection report and wrote his forwarding address on the report. The landlord retained the report, but did not give the tenant a copy. After he moved out the tenant called the landlord to request the return of his security and pet deposits. He received a letter from the landlord dated March 19, 2012. In the letter the landlord denied that the tenant paid a security deposit; the landlord's office administrator

said that the tenant's NSF was not replaced and that the tenant's pet deposit would not be returned because alleged that it had paid more than the amount of the pet deposit on refurbishing the rental unit.

The tenant provided the landlord with a copy of his June 11, 2016 receipt for payment of the \$500.00 deposit. In e-mail correspondence between the landlord and the property manager in charge of the rental property in 2006, the former property manager confirmed that the receipt provided by the tenant was genuine and recorded a payment to replace the original bounced cheque.

Despite the information received from the former property manager the landlord has neglected or refused to refund the tenant's deposits and it did not file an application for dispute resolution to claim the deposits.

Analysis

I accept the tenant's testimony and the documents submitted and I find that the tenant paid a pet deposit of \$250.00 on April 27, 2006 and a security deposit of \$500.00 on June 11, 2006. The landlord has not submitted any evidence to refute the tenant's evidence as to payment of the deposit. Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security or pet deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenant double the amount of the security deposit and pet deposit.

I am satisfied that the tenant provided the landlord with his forwarding address in writing on March 1, 2012 when he wrote it on the condition inspection report; this is corroborated by the March 19th 2012 letter that the landlord sent to the tenant's forwarding address. I find that the tenant served the landlord with documents notifying the landlord of this application as required by the *Act* when he sent the documents to the landlord by registered mail on December 20, 2012.

The tenant's security and pet deposits were not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act* and the doubling provision of section 38(6) therefore applies. \$8.44 in interest has accrued on the pet deposit and interest of \$16.

57 has accrued on the security deposit. I grant the tenant's application and award him the sum of \$1,525.00, being double the original deposits plus the accrued interest. The tenant is entitled to recover the \$50.00 filing fee for this application for a total claim of \$1,575.00 and I grant the tenant a monetary order against the landlord in the said amount. This order may be registered in the 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: March 13, 2013

Residential Tenancy Branch

