



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

DISPUTE CODES MNSD, FF

INTRODUCTION

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

1. Monetary order for return of pet damage or security deposit pursuant to Section 38; and
2. Recovery of the filing fee paid for this application pursuant to Section 67.

I accept that the landlord was properly deemed served with the Application for Dispute Resolution hearing package by way of registered mail.

Both parties attended. On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

BACKGROUND AND EVIDENCE

The tenant testified that she vacated the premises on January 13, 2013. The tenant testified that she provided her forwarding address to the landlord by way of registered mail sent February 25, 2013 however, to date her deposit has not been returned to her.

The landlord acknowledges receiving the tenant's forwarding address and agrees she has not returned the deposit. The landlord says she had reason to retain the deposit but she did not make an application seeking to retain it nor did she have the tenant's permission to retain it.

FINDINGS

Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit if the landlord believes there is cause.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the deposit (section 38(6)). If the tenant does not supply his forwarding address in writing within a year, the landlord may retain the deposit.

I find that the landlord has not returned the security deposit within 15 days of receipt of the tenant's forwarding address. The tenant is therefore entitled to a monetary order in amounting to double the deposit with interest calculated on the original amount only.

Having been successful in this application, I find further that the tenant is entitled recover the \$50.00 filing fee paid for this application.

Total monetary award payable by the landlord to the tenant:

Security Deposit paid on February 25, 2012	\$412.50
Double Security Deposit	412.50
Interest on original amount paid from date security deposit paid to date of this order	0.00
Filing Fees	50.00
TOTAL MONETARY AWARD	\$875.00

The tenant is provided with an Order in the above terms and the landlord must be served with a copy of this Order as soon as possible. This is a final and binding Order as any Order of the Provincial Court of British Columbia.

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: May 14, 2013

Residential Tenancy Branch

