



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This was an application by the tenants for a monetary order for compensation and for the return of their security deposit including double the deposit amount. The hearing was conducted by conference call. The named tenant and the landlord participated in the hearing.

Issue(s) to be Decided

Are the tenants entitled to the return of their security deposit including double the amount?

Background and Evidence

The rental unit is a strata title apartment in Vancouver. The tenancy began in August, 2012. The monthly rent was \$900.00 payable on the first day of each month. The tenants paid a security deposit of \$450.00 and a pet deposit of \$225.00 on July 22, 2012.

The tenancy ended at the end of January, 2013 and the tenants moved out on January 29, 2013. The tenants left their forwarding address in writing at the rental unit when they moved out. The tenant made several requests to the landlord for the return of the security deposit.

On March 6, 2013 the tenant received a letter from the landlord enclosing a \$525.00 bank draft. In the letter that accompanied the payment the landlord said that he withheld \$150.00 as a move out fee.

The landlord did not return the security deposit in full and he did not file an application for dispute resolution to claim the deposit. The landlord testified at the hearing that he

intended to make a claim against the deposit, but he was apparently unaware that he had to file an application for dispute resolution in order to do so. The landlord said that he intends to file an application for dispute resolution to claim a move out charge from the tenants.

Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security 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 tenants double the amount of the security deposit and pet deposit.

I am satisfied that the tenants provided the landlord with their forwarding address in writing, and based upon the acknowledgement of the landlord at the hearing I find that the tenants served the landlord with documents notifying the landlord of this application as required by the *Act*.

The tenants' security deposit was 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. I grant the tenants' application and award them the sum of \$825.00, being double the \$675.00 deposit less the sum of \$525.00 that has been paid. The tenants are entitled to recover the \$50.00 filing fee for this application for a total claim of \$875.00 and I grant the tenants 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: June 06, 2013

Residential Tenancy Branch

