



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 a security deposit.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on July 17, 2013. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s 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 June 1, 2011 as a fixed term tenancy with an expiry date of June 1, 2013. The tenancy ended June 1, 2013 and the Tenant moved out of the unit on May 25, 2013. Rent was \$1,300.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$650.00 on May 13, 2011.

The Tenant said that she moved out of the rental unit on May 25, 2013 and gave the Landlord her forwarding address in writing by email at the end of May, 2013 and in the Hearing package dated July 15, 2013. The Tenant said no move in condition inspection report was completed and no move out condition inspection report was completed. The Tenant continued to say that she cleaned the unit and had the carpets steam cleaned before leaving. Further the Tenant said the Landlord’s agent picked the keys up from her and he said he would return the security deposit as the unit was left in good condition. The Tenant said the Landlord did not return her security deposit.

The Landlord said the Tenant did not give them written notice that she was moving out of the rental unit so they believed the tenancy was going to continue on a month to month basis. The Landlord continued to say that when the Tenant moved out they were fined by the Strata \$300.00, because of an early move out clause in the Strata rules (K form). As well the Tenant had caused damage to the countertops and microwave in

the rental unit. As a result the Landlord said they kept the Tenant's security deposit of \$650.00. The Landlord said if the Tenant is successful with her application the Landlord will make an application for damages in the future.

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 at the end of May and with the application on July 17, 2013 by registered mail. Consequently the Landlord is deemed to have received the written address 5 days after the hearing package was mailed or on July 22, 2013. 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 August 7, 2013. Consequently I find for the Tenant and grant an

order for double the security deposit of \$650.00 in the amount of $\$650.00 \times 2 = \$1,300.00$.

As the Tenant was successful in this matter the Tenant is also order to recover the filing fee of \$50.00 from the Landlord; pursuant to section 67 a monetary order for \$1,350.00 has been issued to the Tenant. This Monetary order represents double the security deposit in the amount of \$1,300.00 and the filing fee of \$50.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$1,350.00 to the Tenant. 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: October 21, 2013

Residential Tenancy Branch

