



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Dunsmuir House Apartments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking monetary compensation for the return of her security deposit, doubled.

The tenant appeared; the landlord did not appear.

The tenant gave evidence that she served the landlord with her Application for Dispute Resolution and Notice of Hearing by registered mail on July 15, 2013, using the address listed on the tenancy agreement. The tenant supplied the registered mail receipt showing the tracking number, and a copy of the registered mail envelope, showing that the mail went unclaimed.

I find the landlord was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to recover her security deposit, doubled?

Background and Evidence

The tenant's undisputed evidence shows that this tenancy began on June 1, 2011, ended on or about June 14, 2013, monthly rent began at \$890, and the tenant paid a security deposit of \$450 at the beginning of the tenancy.

The tenancy agreement supplied by the tenant stated that the tenant paid a security deposit of \$445; however, the tenant said that this amount was incorrect, as it was \$450, and as noted in the landlord's cheque for a partial refund of her security deposit.

The tenant said that the landlord was provided her written forwarding address on June 14, 2013, on the move-out condition inspection report, and as proof that the landlord had the forwarding address, the landlord returned a portion of the security deposit.

The tenant testified that since the tenancy ended, the landlord sent her a cheque in the amount of \$181.27, noting that a deduction of \$123 was made for touch up paint to the wall and a further deduction for \$145.73 was made for carpet cleaning. The tenant submitted that she did not agree to any deductions.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Under section 38 of the Act, at the end of a tenancy a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy. If a landlord fails to comply, then the landlord **must** pay the tenant double the security deposit and pet damage deposit.

In the case before me, the undisputed evidence shows that the landlord received the tenant's written forwarding address on June 14, 2013, the last day of the tenancy, and the tenant has not agreed to any deductions from her security deposit. I have no evidence before me that the landlord has applied for arbitration claiming against the security deposit.

The landlord was therefore required to return the full amount of the tenants' security deposit by June 29, 2013.

However, in contravention of the Act, the landlord deducted an amount from the tenant's security deposit without authority prior to returning the remaining portion.

The landlord may only keep all or a portion of the security deposit or pet damage deposit through the authority of the Act, such as an order from a Dispute Resolution Officer, or with the written agreement of the tenants. Here the landlord did not have any such authority to keep any portion of the security deposit. Therefore, I find that the landlord is not entitled to retain any portion of the security deposit or pet damage deposit, and under section 38 I must order the landlord to pay the tenant double her security deposit.

Conclusion

Due to the above, I find the tenant is entitled to a monetary award of \$718.73, comprised of her security deposit of \$450, doubled to \$900, less the amount previously paid to the tenant, \$181.27.

I grant the tenant a monetary order for \$718.73 and it is enclosed with the tenant's Decision. This order is a legally binding, final order, and should the landlord fail to pay the tenant this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is advised that costs of such enforcement are subject to recovery from the landlord.

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* and is being mailed to both the applicant and the respondent.

Dated: October 10, 2013

Residential Tenancy Branch

