



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Tenant for the return of a double the security and pet deposits, for compensation for loss or damage under the Act, regulations or tenancy agreement and to recover the filing fee.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on November 22, 2013, December 21, 2013, January 31, 2014 and February 26, 2014. The Tenant also said that he confirmed the hearing package information by email on December 21, 2013. As well the Tenant said he confirmed the Landlord’s address with other tenants who had successfully mailed items to the Landlord. 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 in the Landlord’s absences.

The Tenant said the Landlord did not accept any of the registered mail packages with the Application and Notice of Hearing (the “hearing package”) because the post office returned all packages to the sender (the Tenant). The Tenant provided a tracking number and post office receipt and he said the address for the Landlord was correct.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of double the security and pet deposits?
2. Is the Tenant entitled to compensation for loss or damage under the Act, regulations or tenancy agreement?
3. Is the Tenant entitled to recover the filing fee for this proceeding?

Background and Evidence

This tenancy started on November 23, 2012 as a 6 month fixed term tenancy and then continued on a month to month tenancy. The tenancy ended October 31, 2013. Rent was \$850.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$425.00 and a pet deposit of \$425.00 in advance of the tenancy.

The Tenant said that he moved out of the rental unit on October 31, 2013 and gave the Landlord a forwarding address in writing on October 31, 2013 in the move out condition report and by email on November 3, 2013. The Tenant continued to say that he tried to communicate with the Landlord by email approximately 5 times and by phone a number of times, but the Landlord did not communicate with him. The Tenant said he requested his security and pet deposits back from the Landlord in a number of emails and to date he has received nothing. The Tenant said he is requesting double his security and pet deposit returned as indicated in section 38 of the Act.

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 he gave the Landlord a forwarding address in writing on October 31, 2013 and by email on November 3, 2013. The Landlord did not repay security and pet deposits 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 November 15, 2013. Consequently I find for the Tenant and grant an order for double the security and pet deposits of \$425.00 each totally \$850.00 in the amount of $\$850.00 \times 2 = \$1,700.00$.

As the Tenant was successful in this matter I also order the Tenant to recover the filing fee of \$50.00 from the Landlord; pursuant to section 67 a monetary order for \$1,750.00 has been issued to the Tenant. This Monetary order represents double the security and pet deposits in the amount of \$1,700.00 and the filing fee of \$50.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38, 67 and 72 of the Act, I grant a Monetary Order for \$1,750.00 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: March 12, 2014

Residential Tenancy Branch

