



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenant: MNSD, MNDC, FF
For the landlord: MNSD, MNR, MND, FF

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the "Act").

The tenant applied for a return of her security deposit, doubled, a monetary order for money owed or compensation for damage or loss, and for recovery of the filing fee.

The landlords applied for authority to retain the tenant's security deposit, a monetary order for unpaid rent and alleged damage to the rental unit, and for recovery of the filing fee.

All parties attended the teleconference hearing. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process.

Thereafter all parties were provided the opportunity to present their evidence orally, refer to documentary evidence submitted prior to the hearing, make submissions to me and respond to the other's evidence.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence.

I have reviewed the oral and written evidence of the parties 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.

Preliminary and Procedural Matters

The landlords' application requested a monetary order for \$4550; however, there was no breakdown or detailed calculation given as to how the landlords arrived at this sum. Further the landlords' evidence shows a breakdown in the amount of \$5215.78, not the monetary claim listed in their application.

At the outset of the hearing, the landlords were advised that their application for monetary compensation was being refused, pursuant to section 59(5)(c) of the Residential Tenancy Act because their application for dispute resolution did not provide sufficient particulars of their claim for compensation, as is required by section 59(2)(b) of the Act and as required in the application itself.

I find that proceeding with the landlords' monetary claim at this hearing would be prejudicial to the tenant, as the absence of particulars that set out how the landlords arrived at the amount of \$4550 makes it difficult, if not impossible, for the tenant to adequately prepare a response to the landlords' claim.

Issue(s) to be Decided

1. Is the tenant entitled to a return of her security deposit, doubled, and to recover the filing fee?
2. Have the landlords provided sufficient particulars in their application?
3. If so, are they entitled to monetary compensation, to retain the tenant's security deposit and to recover the filing fee?

Background and Evidence

The tenant provided undisputed evidence that the tenancy began on August 1, 2012, ended on January 31, 2014, when she vacated the rental unit, monthly rent was \$1500, and that she paid a security deposit of \$1500. The tenant provided the written tenancy agreement showing these details.

The undisputed evidence also shows there was not a move-in or move-out condition inspection report.

Tenant's application-

The tenant's monetary claim is in the amount of \$3000, comprised of her security deposit of \$1500, doubled. The tenant also claims for recovery of the filing fee.

The tenant testified that she provided her written forwarding address to the landlords first on February 11, 2014, when she placed a letter in the landlords' mailbox. The tenant submitted that when she did not receive a response to this letter, she provided another written forwarding address to the landlords via registered mail February 20, 2014. The tenant provided a copy of both letters as well as the registered mail receipts.

Landlords' response-

The landlord confirmed receiving the tenant's written forwarding address sent via registered mail. The landlord agreed not returning the tenant's security deposit; however, the tenant failed to return the landlord's telephone calls so that they could discuss the landlords' concerns about the state of the tenancy.

The landlord also submitted the written tenancy agreement the tenant supplied did contain that they collected a security deposit of \$1500, but that the most recent tenancy provided that the security deposit was \$750 and the pet damage deposit was \$750. The landlord did agree they were holding deposits of \$1500 from the tenant.

Analysis

Tenant's application-

Under section 38(1) of the Act, at the end of a tenancy a landlord is required to either return a tenant's security deposit and pet damage deposit or to file an application for dispute resolution to retain the security deposit and pet damage deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy.

In the case before me I find that the tenancy ended on January 31, 2014, that the tenant proved that she provided her written forwarding address by registered mail to the landlord on February 20, 2014, and that pursuant to section 90 of the Act, they were deemed to have received it by February 25, 2014. Additionally the landlord confirmed receiving the forwarding address.

Therefore the landlords had 15 days from February 25, 2014, to return the tenant's security deposit or file their application to retain the security deposit. The landlords did file an application, but not until June 13, 2014.

Section 38(6) of the Act states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the amount of their security deposit.

I therefore grant the tenant's application for a return of her security deposit, doubled.

I find merit with the tenant's application and grant her recovery of the filing fee of \$50.

I therefore grant the tenant a monetary award of \$3050, comprised of her security deposit of \$1500, doubled to \$3000, and for recovery of the filing fee of \$50.

Conclusion

Tenant's application-

The tenant's application was granted and she has been granted a monetary order for \$3050, which is enclosed with her Decision.

Should the landlords fail to pay the tenant this amount without delay, the order may be served upon the landlords and the order may be filed in the Provincial Court of British

Columbia (Small Claims) for enforcement as an order of that Court. The landlords are advised that costs of such enforcement are subject to recovery from the landlords.

Landlords' application-

The landlords' application was refused, pursuant to section 59 (5)(a) of the *Residential Tenancy Act*, because their application for dispute resolution did not provide sufficient particulars of their claim for compensation, as is required by section 59(2)(b) of the *Act*.

The landlords are at liberty to re-apply for their monetary claims as a result, but are reminded to include full particulars of their monetary claim with their application, and are encouraged to use the "Monetary Worksheet" form located on the Residential Tenancy Branch website; www.rto.gov.bc.ca.

I make no findings on the merits of the landlords' application for dispute resolution. Leave to reapply is not an extension of any applicable limitation period.

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 applicants/tenant and the applicants/landlords.

Dated: June 24, 2014

Residential Tenancy Branch

