



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER LUXURY REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF, O

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover double the security deposit; other issues; and to recover the filing fee from the landlord for the cost of this application.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*; served by registered mail on July 14, 2014. Canada Post tracking numbers were provided by the tenant in verbal testimony. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order to recover double the security deposit?

Background and Evidence

The tenant testified that this tenancy started on May 08, 2013 for an initial term of one year. The tenancy ended on April 04, 2014 after the landlord served the tenant with a Two Month Notice to End Tenancy for landlord's use of the property. Rent for this unit was \$6,250.00 per month due on the 1st of each month in advance. The tenant testified that a security deposit of \$3,125.00 was paid in April, 2013.

The tenant testified that there was a clause in the tenancy agreement that stated that a cleaning charge of \$150.00 will be deducted from the security deposit at the end of the tenancy. The tenant testified that he attended both the move in and the move out condition inspections of the unit and although the inspection report indicated that the unit was left in the same condition at the end of the tenancy as it was in at the beginning of the tenancy, the tenant did sign the move out inspection report and agreed the landlord could deduct \$150.00 for any cleaning. The tenant testified that he also gave the landlord his forwarding address on the move out inspection report on April 04, 2014. The tenant has provided a copy of the inspection reports in documentary evidence.

The tenant testified that the landlord did not return the balance of the security deposit of \$2,975.00 within 15 days of the end of the tenancy and receiving the tenant's forwarding address in writing. The tenant testified that the landlord did however send a cheque dated May 09, 2014 for \$2,442.80 with a covering letter which informed the tenant that an amount of \$682.50 was deducted from the security deposit for a cleaning invoice. The tenant testified that this cheque and letter was received by the tenant in the middle of June, 2014.

The tenant seeks to recover double the security deposit less the amount of \$150.00 which the tenant did agree the landlord could keep.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenant's forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that this tenancy ended on April 04, 2014 and the landlord received the tenant's forwarding address in writing on that date. As a result, the landlord had 15 days from the end of the tenancy, until April 19, 2014, to return the tenant's security deposit (less the \$150.00 the tenant agreed the landlord could keep) or file an application to keep it. I find the landlord did not return the security deposit within the 15 allowable days and has not filed an application to keep it. The tenant testified that he paid a security deposit of \$3,125.00; however, the evidence provided by the tenant in the form of the deposit statement received from the landlord shows the security deposit was \$3,115.00. Without further evidence from the tenant such as a copy of the tenancy agreement to determine the exact amount paid for the security deposit I find the amount paid was \$3,115.00.

Therefore, I find that the tenant has established a claim for the return of double the security deposit less the \$150.00 the tenant allowed the landlord to retain. The tenants is entitled to recover double the amount of \$2,965.00 to the sum of **\$5,930.00** pursuant to section 38(6)(b) of the *Act*.

The landlord did return part of the security deposit outside the 15 day time limit, the tenant testified that he received a cheque for \$2,442.80; however, the evidence provided by the tenant shows the landlord deducted \$682.50 and returned \$2,432.50 to

the tenant. I have therefore deducted the amount of **\$2,432.50** from the tenant's monetary award.

As the tenant's claim has merit I find the tenant is entitled to recover the **\$50.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the tenant as follows:

Security deposit less amount agreed in writing of \$150.00	\$2,965.00
Doubled portion	\$2,965.00
Less amount returned	(-\$2432.50)
Filing fee	\$50.00
Total amount due to the tenant	\$3,547.50

Conclusion

I HEREBY FIND in favor of tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$3,547.50**. The Order must be served on the respondent. If the respondent fails to pay the Order, the Order is enforceable through the Provincial 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: December 02, 2014

Residential Tenancy Branch

