



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 2167 Dundas Street Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for a monetary order for a return of his security deposit and further monetary compensation.

The tenant, his advocate, and the landlord's agents (hereafter "landlord") attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

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

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

I have reviewed all oral and written evidence 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.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary matter-The tenant listed a variation of the landlord's correct corporate legal name and an incorrect name for the attending property manager. The tenant's legal advocate stated that the landlord's correct legal name should be substituted and that the property manager's name could be removed as respondent/landlord. I have therefore amended the tenant's application so that it reflects these changes.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for a return of his security deposit and further monetary compensation?

Background and Evidence

The tenant submitted evidence that this tenancy began in June or July 2012, that it ended on January 29, 2014, that the monthly rent at the end of the tenancy was \$675.00, and that he paid a security deposit of \$325.00 and a key deposit of \$30.00 at the beginning of the tenancy. A written tenancy agreement was not provided.

The tenant submitted that when the tenancy began, the residential property belonged to a different owner. During the tenancy, the residential property was sold to the landlord here.

The tenant submitted that he provided his written forwarding address to the landlord on his notice that he was vacating and that this notice was given to another employee of the landlord, who then brought the paper to the landlord's office. The tenant submitted further that this written forwarding address was provided between Christmas 2013 and New Year and that the landlord has not returned his security deposit or key deposit.

The tenant submitted further that at the beginning of the tenancy, he paid \$25.00 to store some of his furniture in the basement of the residential property, and at the end of tenancy, his personal property was no longer in storage or to be found.

The tenant's monetary claim is \$1000.00, comprised of the security deposit of \$325.00, the key deposit of \$30.00, a "deposit penalty" of \$355.00, and lost furniture of \$290.00.

The tenant's relevant documentary evidence included a print-out from government ministry paying rent on behalf of the tenant, showing a chequing history. One item shows a cheque in the amount of \$355.00 being sent to a corporate landlord at the main address for this rental unit, for deposit only.

Landlord's response-

The landlord submitted that when their company purchased the residential property, there was no tenancy agreement or record that this tenant had paid a security deposit; therefore, no security deposit was returned. As proof, the landlord submitted a copy of the purchaser's statement of adjustments, a record their purchase of the residential property from the original landlord.

The landlord submitted that they had at least 3 meetings with the tenant and he never proved that a security deposit had been paid. When the landlord received the tenant's evidence, they did nothing with a security deposit, as by this time, the tenant had filed his application for dispute resolution and they prepared for the hearing.

The landlord submitted that the tenant left the rental unit in poor condition at the end of the tenancy.

The landlord confirmed or did not disagree with the tenant's submissions that he provided his written forwarding address to the landlord or agent between Christmas 2013 and New Year.

Analysis

Tenant's security deposit-

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

Under section 93 of the Act, I find that the landlord here, although not the original owner, became responsible to deal with the tenant's security deposit when they purchased the residential property.

I find the tenant submitted sufficient evidence through the cheque history provided to support that the original landlord was paid a security deposit of \$325.00 and a key deposit of \$30.00 on behalf of the tenant,.

The undisputed evidence shows that the tenancy ended on January 29, 2014, the landlord received the tenant's forwarding address in the week between Christmas 2013 and New Year, and that the landlord has neither filed an application to retain the tenant's security deposit nor returned the deposit in full. I therefore find the tenant is entitled to a return of his security deposit of \$325.00, and that the security deposit must be doubled, pursuant to section 38(6). The tenant is granted a monetary award in the amount of \$650.00.

Key deposit-

Under Residential Tenancy Regulation 6, a landlord may charge a refundable key deposit, which I find in this case was a charge of \$30.00 paid by the tenant. I therefore order that the landlord refund the key deposit and grant the tenant a monetary award of \$30.00.

Lost furniture-

I find the tenant submitted insufficient evidence to show that he had either stored furniture in the basement or that the landlord had illegally disposed of his furniture. I therefore dismiss his claim for \$290.00 for lost furniture.

Due to the above, I find the tenant is entitled to a total monetary award of \$680.00, comprised of his security deposit of \$325.00, doubled to \$650.00, and the key deposit of \$30.00.

I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount of his monetary award of \$680.00, which is enclosed with the tenant's Decision.

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 recoverable from the landlord.

Conclusion

The tenant's application for monetary compensation is partially granted, as he has been awarded monetary compensation of \$680.00.

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 13, 2015

Residential Tenancy Branch

