



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC

Introduction

This matter dealt with an application by the Tenant for the return of double the security deposit and for compensation for loss or damage under the Act, regulations or tenancy agreement.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on September 20, 2014. The Tenant continued to say that the Landlord refused to accept the registered mail package and so the package was returned undelivered. Based on the evidence of the Tenant, I find that the Landlord is deemed to be 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 provided a tracking number and post office receipt and she said the address for the Landlord is correct.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the double the security deposit?
2. Is there a loss or damage to the Tenant and if so how much?
3. Is the Tenant entitled to compensation for the loss or damage and if so how much?

Background and Evidence

This tenancy started on December 1, 2006 as a month to month tenancy. The tenancy ended March 4, 2014. Rent was \$520.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$260.00 at the start of the tenancy.

The Tenant said that she moved out of the rental unit on March 4, 2014 and gave the Landlord a forwarding address in writing on August 22, 2014. The Tenant said no move in or move out condition inspections were done, but she cleaned the unit before leaving and she asked the Landlord for her security deposit back. The Tenant said the

Landlord refused to return her the security deposit when she asked for it. Consequently the Tenant has made application for double the security deposit as indicated in section 38 of the Act.

Further the Tenant said the Landlord disconnected her cable TV which was included in the tenancy agreement. The Tenant said the tenancy agreement was verbal because the Landlord did not complete a written tenancy agreement. As proof that the cable TV was included in the rent the Tenant called 2 witnesses and provided a letter from her mother to support her claims. Witness J.A. said that the Landlord disconnected the Tenant's cable TV about 5 years ago in 2010. The Witness J.A. said he witnessed a number of discussions between the Landlord and the Tenant about the cable TV. The witness said the Landlord refused to reconnect the cable unless the Tenant paid extra for it. As well the witness said he gave the Landlord \$20.00 for the cable wire so that the Landlord could reconnect the Tenant's cable TV. Witness J.A. said he understood the cable TV was part of the rental agreement.

The second Witness D.M. said she was in the unit the day the Landlord disconnected the cable TV and told the Tenant that she would have to pay for it to get it hooked up again. Witness D.M. said she understood the cable TV was part of the rental agreement.

The third piece of evidence submitted by the Tenant is a letter from the Tenant's mother who lives out of Province and it states that the Tenant had cable TV at first and then the Landlord disconnected it.

The Tenant said she is requesting compensation for the loss of service, the cable TV, which was part of the tenancy agreement. The Tenant said the cable TV was paid for in the rent and she did not receive that service for 5 years. The Tenant said she is requesting \$30.00 per month for 60 month in the amount of \$1,800.00 for the loss of use of the cable TV service.

The Tenant said her total claim is for \$520.00 representing double the security deposit and \$1,800.00 for the loss of cable TV for 5 years. The Tenant's total claim is \$2,320.00.

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 she gave the Landlord a forwarding address in writing on August 22, 2014. The Landlord did not repay security deposit 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 September 6, 2014. Consequently I find for the Tenant and grant an order for double the security deposit of \$260.00 in the amount of $\$260.00 \times 2 = \520.00 .

With regard to the Tenant's claim for \$1,800.00 for the loss of cable TV service for 60 months, I accept the Tenant's testimony and the affirmed testimony of the 2 witness that the Landlord did provide cable TV as a service in the rental agreement and the Tenant's rent included the cable TV. As well I accept the testimony that the Landlord withheld the cable TV service for approximately 5 years. Consequently I find for the Tenant and award the Tenant's claim for loss of a service (cable TV) in the amount of \$30.00 per month for 60 months for a total of \$1,800.00.

As the Tenant was successful in this matter; pursuant to section 67 a monetary order for \$2,320.00 has been issued to the Tenant. This Monetary order represents double the security deposit in the amount of \$520.00 and \$1,800.00 for the loss of the cable TV service over 60 months of the tenancy.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$2,320.00 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: April 20, 2015

Residential Tenancy Branch

