



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Tenant for the return of double the security deposit and to recover the filing fee for this proceeding.

The Tenant said she served the Landlords with the Application and Notice of Hearing (the “hearing package”) by registered mail on October 28, 2014. Based on the evidence of the Tenant, I find that the Landlords were served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of double the security deposit?

Background and Evidence

This tenancy started on July 1, 2013 as a month to month tenancy. The tenancy ended September 28, 2014. Rent was \$1,250.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$625.00 at the start of the tenancy. The parties agreed a move in condition inspection report was completed on July 1, 2013 and that no move out condition inspection report was completed at the end of the tenancy.

The Tenant said that she moved out of the rental unit on September 28, 2014 as a result of a mutual agreement to end the tenancy with the Landlord. The Landlord said he issued a 10 Day Notice to End Tenancy on August 11, 2014 for unpaid rent and then made an application to obtain an Order of Possession from the Residential Tenancy Branch. The Landlord continued to say that he cancelled his application as the Tenant and the Landlord made an agreement to end the tenancy. Both parties agreed the tenancy ended on September 28, 2014.

The Tenant said she gave the Landlord her forwarding address in a letter dated September 7, 2014. The Landlord confirmed that he received the letter and the Tenant's forwarding address. The Tenant continued to say that she requested the return of the security deposit from both the Landlord and the Property Management Company employed by the Landlord and both parties refused to return the security deposit. As a result the Tenant said she made this application to the Residential Tenancy Branch to assist her in recovering her security deposit.

The Landlord said the Tenant abandoned the rental unit and left the unit unclean and there was damage to the unit. The Landlord continued to say he submitted photographs, paid receipts for the repairs and a full description of the events and damage in his evidence package. The Landlord said he has not made an application for dispute resolution to retain the Tenant's security deposit or for any damages in the unit. The Landlord said he retained the Tenant's security deposit of \$625.00 as compensation for the damages that he believes the Tenant did to the unit during the tenancy.

The parties were offered an opportunity to settle the dispute by mutual agreement and the Tenant made the Landlord an offer of double the security deposit less the carpet cleaning costs. The Landlord declined the Tenant's offer and left the conference call saying the Tenant could use the courts to collect the security deposit.

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 and evidence that she gave the Landlord a forwarding address in writing on September 7, 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 October 13, 2014. Consequently I find for the Tenant and grant an order for double the security deposit of \$625.00 in the amount of $\$625.00 \times 2 = \$1,250.00$.

As the Tenant was successful in this matter I order the Tenant to recover the filing fee of \$50.00 from the Landlord; pursuant to section 38 and 67 a monetary order for \$1,300.00 has been issued to the Tenant. This Monetary Order represents double the security deposit in the amount of \$1,250.00 and the filing fee of \$50.00.

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 \$1,300.00 to the Tenant. The order must be served on the Respondents 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 01, 2015

Residential Tenancy Branch

