



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, RPP, FF

Introduction and Preliminary Matters

This hearing was originally convened to deal with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for for a monetary order for a return of her security deposit, a monetary order for money owed or compensation for damage or loss, an order requiring the landlord to return the tenant's personal possessions, and for recovery of the filing fee paid for this application.

This hearing began on March 24, 2015, and was attended by the tenant and her witness, only. An Interim Decision, which was entered on April 15, 2015, should be read in conjunction with this Decision and further, it is incorporated by reference herein.

In the Interim Decision, the landlord was ordered to return the tenant's personal property, which included 5 mountain bikes, 2 snowboards, a ski bag and miscellaneous items totalling about \$200.00, by May 8, 2015.

The original hearing was also ordered to be reconvened to ensure the landlord's compliance with the order to return the tenant's personal property and to consider the monetary claim of the tenant, which included her request for a return of her security deposit and for recovery of the filing fee.

The tenant and the landlord were sent notices of this reconvened hearing by the Residential Tenancy Branch ("RTB") and only the tenant attended.

The tenant submitted that, although the landlord failed to comply with the deadline for returning her personal property, the landlord did eventually return the claimed personal property.

The hearing then proceeded on the tenant's request for a return of her security deposit and recovery of her filing fee, in the landlord's absence as I found the tenant submitted sufficient evidence to prove she served the landlord in a manner complying with section 89(1) of the Act.

The tenant was provided the opportunity to present her 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 documentary 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.

Issue(s) to be Decided

Is the tenant entitled to a return of her security deposit and to recovery of the filing fee paid for this application?

Background and Evidence

The undisputed evidence was that this tenancy began on January 25, 2014, ended at the end of November 2014, monthly rent was \$600.00, and that the tenant paid a security deposit of \$300.00 at the beginning of the tenancy.

The tenant submitted that she served her application for dispute resolution claiming a return of her security deposit and an order requiring the landlord to return the tenant's personal possessions on the landlord on February 27, 2015, by registered mail, and that the landlord signed for that mail on March 18, 2015.

The tenant submitted that despite her request in her application, the landlord has failed to return her security deposit.

Analysis

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 security deposit within 15 days of the later of receiving the tenant's forwarding address in writing and 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.

In this case, the undisputed evidence shows that the tenancy ended in November 2014, and the landlord received the tenant's application claiming her security deposit on March 18, 2015, by registered mail. At that point, the landlord could very well have made their own application for dispute resolution to claim against the deposit and chose not to.

A legal definition of writing refers to a printed or scripted document, as opposed to spoken word.

I therefore find that the landlord received the tenant's written forwarding address in her printed application on March 18, 2015, the landlord had 15 days from that date to return the tenant's security deposit, and the landlord failed to do so.

I therefore find the tenant is entitled to a return of her security deposit of \$300.00 and that this amount should be doubled, pursuant to section 38(6) of the Act.

I also award the tenant recovery of her filing fee paid for this application, or \$100.00, pursuant to section 72(1) of the Act.

Due to the above, I find the tenant is entitled to a monetary award of \$700.00, comprised of her security deposit of \$300.00, doubled to \$600.00, and recovery of her filing fee of \$100.00.

I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount of her monetary award of \$700.00, which is enclosed with the tenant's Decision.

Should the landlord fail to pay the tenant this amount without delay, the monetary order may be served upon the landlord and 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 granted and she has been granted a monetary order in the amount of \$700.00.

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: June 11, 2015

Residential Tenancy Branch

