



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OLC, FF

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 her security deposit and pet damage deposit, doubled, an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, and for recovery of the filing fee paid for this application.

The tenant and the 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, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence.

Thereafter the participants 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 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 monetary order comprised of her security deposit and pet damage deposit, doubled, an order requiring the landlord to comply with the Act, and to recovery of the filing fee paid for this application?

Background and Evidence

The evidence of the parties was that this tenancy began on September 1, 2013, ended on or about September 9, 2014, monthly rent was \$1150.00 and the tenant paid a security deposit of \$575.00 and a pet damage deposit of \$575.00.

The undisputed evidence was that the 2 deposits have not been returned to the tenant.

In support of her claim that she is entitled to the return of her security deposit and pet damage deposit, the tenant submitted that she provided the landlord with her written forwarding address first by text message, as the landlord preferred communicating that way, then in an email October 13, 2014, and then in a letter in January 2015, sent by regular mail. Despite her requests, the landlord has not returned either her security deposit or pet damage deposit.

The landlord confirmed receipt of the tenant's written forwarding address in an email on October 13, 2015.

The landlord contended that he retained the security deposit and pet damage deposit to partially cover the costs of cleaning and for unpaid rent.

Analysis

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

The undisputed evidence shows that the tenancy ended on or about September 9, 2014, the landlord first received the tenant's forwarding address on October 13, 2014, in an email from the tenant and that the landlord has neither filed an application to retain the tenant's security deposit and pet damage deposit nor returned the two deposits in full.

In the case before me, I accept that email and text message communication was the preferred method of communication between the parties, as demonstrated by the tenant's evidence.

Although section 88 of the Act does not recognize email transmission as an acceptable method of delivery of documents, I order that the delivery of the tenant's forwarding address through the October 13, 2014, email to the landlord, with the landlord's response and confirmation, sufficiently served, pursuant to section 71 of the Act.

I therefore grant the tenant's application for dispute resolution and, pursuant to section 62(3) of the Act, order that the landlord pay the tenant double her security deposit of \$575.00 and pet damage deposit of \$575.00.

Due to the above, I find the tenant is entitled to a total monetary award of \$2350.00, comprised of her security deposit of \$575.00, doubled to \$1150.00, her pet damage deposit of \$575.00, doubled to \$1150.00, and recovery of her filing fee of \$50.00.

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 \$2350.00, 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 requesting a return of her security deposit and pet damage deposit, and that the amount should be doubled, is granted.

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: August 29, 2015

Residential Tenancy Branch

