



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF, O

Introduction

This matter dealt with an application by the Tenant for compensation for loss or damage under the Act, regulations or tenancy agreement, for the return of a security deposit, to recover the filing fee and for other considerations.

The Tenant said she served the Landlords with the Application and Notice of Hearing (the “hearing package”) by registered mail on March 25, 2015. 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 in the four Landlords in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of double the security deposit?
2. Is the Tenant entitled to compensation for loss or damage?
3. What other considerations are there?

Background and Evidence

This tenancy started on December 1, 2013 as a month to month verbal tenancy. The tenancy ended March 2, 2015. Rent was \$800.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$400.00 on November 15, 2013. No condition inspection reports were completed and signed in accordance to the Act.

The Tenant said that she moved out of the rental unit on March 2, 2015 as a result of a 2 Month Notice to End Tenancy for the Landlord’s Use of the property. The Notice to End Tenancy had an effective date of March 31, 2015, but the Tenant decided to move out early on March 2, 2015.

The Tenant continued to say that she gave the Landlords her forwarding address on March 24, 2015 in writing and requested the return of her security deposit of \$400.00. The Tenant said the Landlords have not returned her security deposit so she made this application.

The Tenant said she is applying for double the security deposit in the amount of \$800.00, \$50.40 for postage, \$22.40 for a dish washer adapter and for the \$50.00 filing fee for this application. The Tenant said she is requesting \$923.80 from the Landlord.

The Landlord said they retained the Tenant's security deposit because they believe the Tenant has unpaid rent and there were damages that the Landlords believe the Tenant caused to the rental unit. The Landlords were under the impression that they could make these claims at this hearing without making an application. The Arbitrator told the Landlords they can make these claims in their own application and they have up to two years after the end of the tenancy to do that. The hearing today is only dealing with the Tenant's application and claims.

The Landlords continued to say they agree that they did not make an application to retain the Tenant's security deposit and they did not complete a move in or move out condition inspection report in compliance with the Act. The Landlord said they had some health issues at the time of the Tenant's application and they did not know all of their responsibilities as landlords.

In closing the Tenant said not having her security deposit returned has caused her some financial hardship. The Tenant said she is applying for \$923.80 less the postage costs of \$50.40 as she understands those expenses are not eligible claims under this process.

The Landlords said in closing they will be making an application for damages and loss rent in the future.

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 Landlords a forwarding address in writing on March 24, 2015. The Landlords 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 April 8, 2015. Consequently I find for the Tenant and grant an order for double the security deposit of \$400.00 in the amount of $\$400.00 \times 2 = \800.00 .

With respect to the Tenant's claim for the lost washer adapter, the Tenant has not provided any proof of the value of the adapter nor has the Tenant proven the Landlord is responsible for the missing adapter. Consequently I dismiss the Tenant's claim for \$22.40 for the missing adapter.

Further as explained to the Tenant postage costs are not an eligible claim in these applications therefore the postage claim for \$50.40 is dismissed.

As the Tenant was successful in this matter I order the Tenant to recover the filing fee of \$50.00 from the Landlords; pursuant to section 67 a monetary order for \$850.00 has been issued to the Tenant. This monetary order represents double the security deposit in the amount of \$800.00 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 \$850.00 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: September 01, 2015

Residential Tenancy Branch

