



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened as the result of the tenants' application for dispute resolution under the Residential Tenancy Act ("Act"). The tenants applied for a monetary order for a return of their security deposit, further monetary compensation to double the security deposit, and for recovery of the filing fee paid for this application.

The listed tenant attended the telephone conference call hearing; the landlord did not attend.

The tenant testified that they served the landlord with the application for dispute resolution and notice of hearing by registered mail on April 21, 2015.

Based upon the submissions of the tenants and given that the landlord filed responsive evidence in this matter, I find the landlord was served notice of this hearing and the tenants' application in a manner complying with section 89(1) of the Act and the hearing proceeded in the landlord's absence.

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

Are the tenants entitled to a return of their security deposit, that the security deposit should be doubled, and to recovery of the filing fee paid for this application?

Background and Evidence

The tenant submitted that the tenancy began in March 2012, ended on April 1, 2015, and that they paid a security deposit of \$450.00 at the beginning of the tenancy.

The tenant submitted that they provided the landlord with their forwarding address in an email on or about March 16, 2015, and that the landlord used that address to return a portion of their security deposit. The tenant submitted further that the landlord made a deduction of \$140.24 and returned the amount of \$309.76. The tenant submitted that they did not agree to any deductions.

The tenant submitted that as the landlord lived out of town, the parties communicated primarily through email.

The tenants' relevant documentary evidence included a statement from the landlord explaining the deduction made.

The landlord submitted copies of email communication between the parties.

Analysis

Under section 38(1) of the Act, within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy, a landlord must either return a tenant's security deposit or to file an application for dispute resolution claiming against the security deposit.

In the case before me, the undisputed evidence was that the tenancy ended on or about April 1, 2015, the tenants provided their forwarding address to the landlord in an email on or about March 16, 2015, and the landlord used this address to return a portion of the tenants' security deposit. I accept that email was the preferred method of communication between the parties, as demonstrated by the tenant's and landlord'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 March 16, 2015 email to the landlord, with the landlord's use of that address to return a portion of the tenants' security deposit, sufficiently served, pursuant to section 71 of the Act.

I have no evidence before me that the landlord applied for dispute resolution claiming against the security deposit. In contravention of the Act, the landlord made a deduction from the tenant's security deposit before returning a portion.

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 tenants double the amount of their security deposit.

I therefore approve the tenants' claim for a return of their security deposit, doubled, less the amount previously returned.

I also approve the tenants' request for recovery of their filing fee of \$50.00, pursuant to section 72(1) of the Act.

Due to the above, I grant the tenants a total monetary award of \$640.76, comprised of their security deposit of \$450.00, doubled to \$900.00, less \$309.76 previously returned, and the filing fee of \$50.00.

I grant the tenants a final, legally binding monetary order pursuant to section 67 of the Act for the amount of their monetary award of \$640.76, which is enclosed with the tenants' Decision.

Should the landlord fail to pay the tenants this amount without delay, the order may be served on the landlord to be enforceable 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 tenants' application requesting a return of their security deposit, which was doubled by operation of the Act, 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: September 23, 2015

Residential Tenancy Branch

