



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Woodsworth Homes Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. A Monetary Order for compensation - Section 67;
2. An Order for the return of double the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tennant entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started in December 2013 and ended on April 6, 2015. Rent of \$2,500.00 was payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$1,250.00 as a security deposit and \$1,250.00 as a pet deposit. The Tenant provided its forwarding address in writing to the Landlord on March 24, 2015. The Tenant did not receive the return of the security and pet deposit until April 28, 2015. The Tenant claims return of double the security deposit.

The Landlord states that the deposits were returned late to the Tenant as the Landlord thought it had 15 business days to return the deposit. The Landlord states further that the Landlord was out of country at the time the Tenant gave its notice.

The Parties agree that the Landlord gave the Tenant a two month notice to end tenancy for landlord's use (the "Notice") in March 2015 with an effective date of May 5, 2015. The reason indicated for the Notice is that the unit was sold and the purchaser asked the Landlord to end the tenancy as the purchasers were to live in the unit. The Landlord states that the demolition of the unit was checked off in error and only on the basis that the purchaser had said that they may demolish the unit in the future. The Tenant agrees that the intention for the Notice as stated by the Landlord at the time the Notice was served was for the purchasers to live in the unit. The Tenant states that the unit was standing in July 2015 but by the end of August 2015 the unit had been demolished. The Tenant claims an amount equivalent to double the monthly rent.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. The Residential Tenant Branch Rules of Procedure contains a definition of "days" as meaning consecutive days and not only business days. Based on the undisputed evidence that the Landlord failed to return the security and pet deposit to the Tenant within 15 days of the end of the tenancy I find that the Tenant is entitled to return of double the combined pet and security deposit in the amount of **\$5,000.00 plus zero interest**. Deducting the amount of \$2,500.00 already received leaves \$2,500.00 owed to the Tenant.

Section 59(2) of the Act provides that if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after

the effective date of the notice, or the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice, the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement. As the purchaser asked the Landlord to end the tenancy on the basis that the purchaser intended to move into the unit, I find that the Tenant's cause of action lies with the purchaser and not the Landlord. I therefore dismiss this claim against the Landlord and give the Tenant leave to reapply against the appropriate party.

As the Tenant's application was at least partially successful I find that the Tenant is entitled to recovery of the \$50.00 filing fee for a total entitlement of **\$2,550.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$2,550.00**. If necessary, this order may be filed in the Small Claims Court and enforced 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: October 01, 2015

Residential Tenancy Branch

