



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANTAGE WEST PROPERTY MANAGEMENT & COURTNEY
DESHAYES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPT, MNDC, MNSD, O

Introduction

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

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by personal delivery by her agent on November 24, 2015. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenant in attendance.

The Tenant said she is in a new rental unit. Consequently the application for possession of the unit is cancelled.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?
2. Is there a loss or damage to the Tenant and if so how much?

Background and Evidence

This tenancy was to start on November 1, 2015 but the Tenant said the Landlord’s agent cancelled the tenancy on October 29, 2015. The tenancy was to be a month to month tenancy. Rent was to be \$1,050.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$525.00 on October 23, 2015. The Tenant said the Landlord was given her forwarding address in writing on November 24, 2015.

The Tenant said that she signed a tenancy agreement in her name alone on October 22, 2015 and she was planning to move into the rental unit on November 1, 2015. The Tenant continued to say the Landlord’s agent contacted her on October 29, 2015 and told her the owner of the rental unit no longer was willing to rent the unit to her because

of her boyfriend's criminal record. The Tenant said the boyfriend is not on the tenancy agreement and they made arrangements for the boyfriend to live elsewhere. The Tenant said the Landlord broke the tenancy contract and so she is applying for the following compensations:

1. The return of her security deposit in the amount of \$525.00. The Tenant said she has not received her security deposit back from the Landlord as of yet.
2. Compensation for alternative lodging for the month of November, 2015 in the amount of \$1,080.00 as she did not have time to find another rental unit so she rented a hotel room for the month. The Tenant said she has included the receipt from the hotel in the amount of \$1,080.00.
3. Storage costs of \$150.00 but the Tenant said she does not have a receipt for this item as the storage was with friends.

The Landlord's Agent said the rental unit sold in the first week of November, 2015 and the new owner did not want to rent the unit to the Tenant because of her boyfriend. As a result the Agent was told to end the tenancy which the Agent did on October 29, 2015. The Landlord's Agent said the Tenant is telling the truth of what happened and the Agent said she had little control of what happened as it was the new Landlord's decision.

The Landlord's agent said that a cheque for the security deposit was in the office and the Tenant was told it was there for pick up but the Landlord's Agent said they did not send the cheque to the Tenant.

Analysis

Section 16 of the Act says that the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit.

The Tenant has submitted a tenancy agreement which was signed on October 22, 2015. Consequently the rights and obligations of both the Tenant and the Landlord started on October 22, 2015. As the Landlord refused to allow the tenancy to continue as agreed; I find the Landlord broke the tenancy agreement in violation of the Act. Consequently I award the Tenant alternative housing costs for the month of November, 2015 in the amount of \$1,080.00.

Further; 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 find that the Tenant did give the Landlord a forwarding address in writing on November 24, 2015. The Landlord 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. Consequently I find for the Tenant and grant an order for double the security deposit of \$525.00 in the amount of $\$525.00 \times 2 = \$1,050.00$.

Further the Tenant has applied for storage costs of \$150.00 but as there is no paid receipt to prove and to verify the lost; therefore I dismiss the Tenant's claim for storage costs of \$150.00.

As the Tenant has been successful in this matter, I further order pursuant to section 67 of the Act a monetary order for \$2,130.00 has been issued to the Tenant for the following:

Alternative housing costs for November, 2015	\$1,080.00
Double the security deposit	<u>\$1,050.00</u>
Balance owing	<u>\$2,130.00</u>

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 \$2,130.00 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: January 04, 2016

Residential Tenancy Branch

