



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OLC, FF

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit, for the Landlord to comply with the Act regulations and tenancy agreement and to recover the filing fee.

The Tenant's agent said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on October 2, 2015. Based on the evidence of the Tenant's agent, 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 in the Landlord's absences.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?
2. Has the Landlord complied with the Act, regulations for tenancy agreement?

Background and Evidence

This tenancy started on August 1, 2014 as a fixed term tenancy with an expiry date of July 31, 2015. The tenancy ended July 31, 2015. Rent was \$2,150.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$1,075.00 and a pet deposit of \$300.00 on August 1, 2014.

The Tenant's agent said that they moved out of the rental unit on July 31, 2015 and gave the Landlord a forwarding address in writing on August 26, 2015. The Tenant's agent said there were no move in or move out condition inspection reports completed. The Tenant's agent continued to say that they cleaned the unit before leaving and they asked the Landlord for their security and pet deposits back.

The Tenant's agent said they have not received the security or pet deposits back and they are requesting double their deposits as indicated in the Act.

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 agent's testimony that he gave the Landlord a forwarding address in writing on August 26, 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 by September 11, 2015. Consequently I find for the Tenant and grant an order for double the security deposit of \$1,075 and double the pet deposit of \$300.00 in the amount of $\$1,075.00 + \$300.00 = 1,375.00 \times 2 = \$2,750.00$.

As the Tenant was successful in this matter I also order the Tenant to recover the filing fee from the Landlord of \$50.00. Pursuant to section 67 a monetary order for \$2,800.00 has been issued to the Tenant. This Monetary order represents double the security and pet deposits plus the filing fee in the amount of \$2,800.00.

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 \$2,800.00 to the Tenant. The order must be served on the Respondent 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: April 11, 2016

Residential Tenancy Branch