



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BURNABY HEIGHTS INVESTMENTS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover the security deposit.

The tenant and landlord's agent (the landlord) attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch in advance of this hearing. The tenant confirmed receipt of the landlord's documentary evidence but the landlord could not confirm receipt of the tenant's documentary evidence.

Procedural issues - In considering Rule 3.14, the tenant as the applicant, must submit their evidence so that it is received by the Residential Tenancy Branch ("RTB") and the other party not less than 14 days prior to the hearing, and in this case, There is insufficient evidence that the tenant provided his two pages of documentary evidence to the landlord. In considering whether to accept the tenant's evidence, I find that the landlord agreed that he had previously received and has had sight of the tenant's documentary evidence consisting of the tenant's notice to end tenancy and receipts for the security and key deposits and therefore I will allow the tenant's documentary evidence to be considered pursuant to rule 3.17 of the Rules of procedure as I do not believe by my acceptance of this evidence that it will be prejudicial to the other party.

Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order for the return of the security and key deposits?
- Is the tenant entitled to have the deposits doubled?

Background and Evidence

The parties agreed that this month to month tenancy started on November 21, 2012 and was ended by proper notice on June 15, 2015. Rent for this unit was \$880.00 per month plus \$20.00 for parking and \$5.00 for storage. The tenant paid a security deposit of \$450.00, an additional key deposit of \$50.00 and a storage key deposit of \$20.00. Both parties attended the move in and move out condition inspection of the property and the tenant provided a forwarding address in writing on April 20, 2015.

The tenant testified that he provided written notice to end the tenancy on April 20, 2015 and contained within that Notice was the tenant's forwarding address. This is clearly written on that letter. At the end of the tenancy the tenant agreed in writing that the landlord could retain \$105.00 of the security deposit for carpet and drape cleaning. The tenant testified that the landlord has not returned the balance of the security deposit to the tenant within 15 days of the end of the tenancy and the tenant seeks to amend his application to recover double the balance of the security deposit.

The landlord testified that the tenant filled out his address on a form for the security deposit at the end of the tenancy. The tenant provided an incomplete forwarding address and the landlord was unable to locate the tenant to return the balance of his security deposit. The landlord did write a cheque for the tenant for \$385.00 but was not able to send this as the address was not complete. The landlord testified that he did not realize the tenant had also provided his forwarding address on his notice to end tenancy and as it is not normal for a tenant to do this the landlord did not think to look at the letter again.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenant's forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that this tenancy ended on June 15, 2015 and the landlord did receive the tenant's forwarding address in writing on April 20, 2015. While I do accept that when the tenant provided his forwarding address again on the security deposit form, that it was incomplete, the fact remains that the tenant had

already provided a complete forwarding address on his notice to end tenancy. As a result, the landlord had 15 days from the end of the tenancy, until June 30, 2015, to return the tenant's security deposit or file an application to keep it. I find the landlord did not return the security deposit and has not filed an application to keep it. The tenant did agree in writing that the landlord could retain \$105.00 of the security deposit, this leaves a remaining balance for the security deposit and two keys deposits to an amount of \$415.00. Therefore, I find that the tenant has established a claim for the return of double the balance of the security deposit to the sum of **\$830.00** pursuant to section 38(6)(b) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$830.00**. The Order must be served on the landlord. Should the landlord fail to comply with the Order the Order may be enforced through the Provincial (Small Claims) Court of British Columbia 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: June 24, 2016

Residential Tenancy Branch