



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 by way of conference call concerning an application made by the tenants for a monetary order for return of all or part of the pet damage deposit or security deposit; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

The landlord and one of the named tenants attended the hearing and also represented the other named tenant. The tenant was also assisted by an advocate. The parties gave affirmed testimony, and were given the opportunity to question each other and give closing submissions. The tenants have also provided evidentiary material, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Have the tenants established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?

Background and Evidence

The tenant testified that this fixed term tenancy began on January 1, 2015 and reverted to a month-to-month tenancy after the first year. The tenants gave the landlord 6 weeks written notice to end the tenancy due to the property being listed for sale and numerous showings with realtors. The tenancy ultimately ended on April 30, 2016.

The tenant also testified that rent in the amount of \$1,500.00 per month was payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$750.00

which is still held by the landlord, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided.

The tenant further testified that no move-in or move-out condition inspection reports were completed. The landlord and the tenant walked through the rental unit at the end of the tenancy on April 30, 2016 and the tenant personally gave to the landlord the tenants' forwarding address in a note. The landlord did not take any photographs during that walk-through, and the tenants did not authorize the landlord to keep any portion of the security deposit. The landlord has not served the tenants with an application for dispute resolution claiming against the security deposit.

On May 15, 2016 the tenant contacted the landlord enquiring about return of the security deposit, and the landlord told the tenant that he had contacted a lawyer who would be providing the tenants with paperwork and that the tenants would be hearing from the landlord's lawyer, but the tenants didn't receive any paperwork or hear from a lawyer. The landlord also told the tenant that he had before and after photographs of the rental unit, but the tenants have not received copies. The rental property has now been sold.

The landlord testified that he had been out of town and upon return went to the Service BC Office and was told that he was a day late.

The tenants left damages in the rental unit causing the landlord to have to reduce the sale price of the rental home by \$5,000.00.

The landlord further testified that the address that the tenant provided was an incorrect address, and that the landlord sent a letter to the tenants at that address respecting the security deposit and damages, but the letter was returned.

No evidentiary material has been provided by the landlord.

Analysis

The *Residential Tenancy Act* is clear with respect to security deposits and pet damage deposits. Firstly, a landlord's right to make a claim against the deposits for damages is extinguished if the landlord does not ensure that move-in and move-out condition inspection reports are completed with the tenants and the tenants receive a copy. The *Act* also states that a landlord has 15 days from the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to return the deposit(s) in full to the tenants or make an application for dispute resolution claiming against the deposit(s). If the landlord does neither, the landlord must repay double.

In this case, the landlord does not deny that he didn't return the security deposit. The landlord testified that he sent the tenants a letter which was returned to the landlord, but did not return the security deposit.

Having heard the testimony of the parties, I find that the landlord had a forwarding address in writing on April 30, 2016 and the tenancy ended that day. The landlord did not return the security deposit or make an application to keep any portion of it, nor did the landlord have any authorization from the tenants to keep any portion. Therefore, I find that the tenants are entitled to double.

Since the tenants have been successful with the application, the tenants are also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,600.00.

This order is final and binding and may be enforced.

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 17, 2016

Residential Tenancy Branch