



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding IMH POOL XIV IP and Larlyn Property Management (BC) Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, 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 and to recover the filing fee from the landlords for the cost of the application.

One of the tenants attended the hearing, gave affirmed testimony, and also represented the other tenant. However, no one for the landlords attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the tenant. The tenant testified that each of the landlords was individually served with the Tenant's Application for Dispute Resolution and notice of this hearing by registered mail on March 20, 2016. The tenants have provided a copy of a Canada Post print-out confirming that information, and I am satisfied that both landlords have been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

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

Background and Evidence

The tenant testified that this month-to-month tenancy began on September 1, 2012 and ended on January 31, 2016. A copy of the tenancy agreement has been provided, and the tenant testified that in mid-December, 2015 the landlord sold the rental unit to the current landlords. Rent in the amount of \$980.00 per month, plus \$15.00 per month for parking was originally payable under the tenancy agreement, which was increased during the tenancy, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$490.00.

On January 31, 2016 the tenant could not locate an agent of the landlords to return the keys to, so the tenant attached the keys to a note which contained the tenants' forwarding address and put them in the mail slot at the landlords' office. A photograph has been provided and the note is dated January 31, 2016. Sometime in February, after 2 weeks had gone by, the tenant followed up and spoke to a property manager of the landlords who confirmed that he had the note and the forwarding address. The property manager asked the tenant to send the address again by text message so that he could contact the landlords' office to see why the security deposit hadn't been returned. The tenant sent the text message on February 29, 2016 and the property manager replied by text message stating that he would get back to the tenant. Screen shots of the text messages have been provided. The tenant never heard back from the property manager.

The tenants received a cheque from the landlord company in the amount of \$490.00 with a letter dated May 10, 2016 and a Statement of Account. The envelope is post-marked May 11, 2016, and the tenant has cashed the cheque.

The tenants have not been served with an application for dispute resolution by the landlords claiming against the deposit, the landlords did not return the deposit within the time required, and the tenants seek double the amount of the security deposit and recovery of the \$100.00 filing fee.

Analysis

The *Residential Tenancy Act* states that a landlord must return a security deposit or pet damage deposit to a tenant or make an application for dispute resolution claiming against it within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. If the landlord fails to do either, the landlord must repay the tenant double the amount.

In this case, I accept the testimony of the tenant that the tenancy ended on January 31, 2016 and the tenant left a forwarding address in the mail slot of the landlords on that date. However, I am not convinced that the landlords received it that day.

The tenants have also provided evidence that the forwarding address was also provided by text message to an agent of the landlord, who replied to that message by text messaging the tenant. The landlords returned the \$490.00 security deposit, so I am satisfied that the landlords received the tenants' forwarding address in writing as testified by the tenant, on February 29, 2016. The landlords returned the security deposit to the tenants on May 11, 2016, which is far beyond the 15 days as required by the *Act*. I also accept the undisputed testimony of the tenant that the landlords have not

served the tenants with an application for dispute resolution claiming against the security deposit, and I have no such application before me. Therefore, I find that the tenants have established a claim for double the amount, or an additional \$490.00.

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 landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$590.00.

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: August 04, 2016

Residential Tenancy Branch

