



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capilano Property
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNSD

Introduction

This hearing was convened in response to an application by the Tenant claiming return of double the security deposit pursuant to section 38 of the *Residential Tenancy Act* (the "Act").

I accept the Tenant's evidence that the Landlord was served with the application for dispute resolution and notice of hearing by serving the apartment manager in person on April 24, 2016 in accordance with Section 89 of the Act. The Landlord did not attend the hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

The Tenant stated at the hearing that another claim of \$300.00 was being made in relation to the Tenant being provided an unsafe unit during the tenancy. It is noted however that the application notes a total monetary claim of \$517.50 and the Tenant did not amend the application to increase this total amount to include this claim. As a result I dismiss this claim with leave to reapply.

Issue(s) to be Decided

Is the Tenant entitled to return of double the security deposit?

Background and Evidence

The tenancy started on November 1, 2014 and ended on March 31, 2016. Rent of \$635.00 was payable monthly. At the outset of the tenancy the Landlord collected \$317.50 as a security deposit and \$200.00 as a pet deposit. The Tenant provided her forwarding address on the move-out report completed on March 31, 2016.

The Tenant signed a document agreeing to a deduction of \$365.00 from the security deposit however the Tenant agreed to this only after the Landlord became very aggressive and threatened to charge the Tenant more than this amount. The Tenant argues that she signed the document under duress. The Landlord also only returned \$135.00 of the remaining security and

pet deposit. The Tenant agrees that the Landlord should have deducted \$220.00 only for the cost of cleaning the carpet and drapes and the Tenant asks that this amount be retained by the Landlord. The Tenant claims return of double the security deposit.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit.

Based on the undisputed evidence of the Tenant that the Landlord threatened the Tenant into agreeing to a deduction from the security deposit, I find that the Tenant provided its agreement under duress and that the agreement for any deduction from the security deposit is therefore null and void. As the Landlord did not return the full security deposit and did not make an application to claim against the security deposit I find that the Landlord must now pay the Tenant double the combined security and pet deposit plus zero interest in the amount of **\$1,035.00**. Deducting the **\$135.00** already returned leaves **\$900.00** owed by the Landlord to the Tenant.

Based on the Tenant's agreement at the hearing I order the Landlord to retain **\$220.00** from this amount for the costs of cleaning the carpet and drapes and I order the Landlord to return the remaining **\$680.00** to the Tenant forthwith.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$680.00**. If necessary, this order may be filed in the Small Claims Court and enforced 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: October 05, 2016

Residential Tenancy Branch