



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REALSTAR MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Tenants for the return of double the security deposit, the pet deposit and 2 FOB deposits and for loss or damage under the Act, regulations or tenancy agreement.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on March 2, 2016. Based on the evidence of the Tenant, 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 with both parties represented.

Issues(s) to be Decided

1. Are the Tenants entitled to double the return of the deposits?
2. Have the Tenants experienced a loss or damage and if you should they be compensated?

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 continued after July 31, 2015 as a month to month tenancy. The tenancy ended on January 31, 2016. Rent was \$1,190.00 plus \$30.00 for parking per month payable on the 1st day of each month. The Tenant paid a security deposit of \$590.00 on July 4, 2014, a pet deposit of \$250.00 and a FOB deposit of \$50.00 on July 17, 2014 and a second FOB deposit was paid on April 29, 2014. The Tenants provided copies of receipts for all the deposits. A move in condition inspection report was completed on July 18, 2014 and a move out condition inspection report was completed on January 31, 2016. The Tenant gave the Landlord their forwarding address on the move out report dated January 31, 2016.

The Tenant said that they moved out of the rental unit on January 31, 2016 and the Landlord said the unit was in good condition and they would receive all their deposits back in the amount of \$940.00. The Tenant said the Landlord sent them a cheque for

\$890.50 which was \$49.50 less than their deposits added up to. The Tenant said the Landlord gave no explanation for the deduction and when the Tenant phoned the Landlord on or about February 20, 2016 the Landlord did not return his call. The Tenant continued to say that he was frustrated with the Landlord so he made his application on February 26, 2016 for double his deposits less the amount returned to them. The Tenant said they are applying for the following:

	Security deposit	\$ 590.00
	Pet deposit	\$ 250.00
	FOB deposit	\$ 50.00
	FOB deposit	<u>\$ 50.00</u>
	Subtotal	\$ 940.00 X 2 =\$1,880.00
	Filing Fee	<u>\$ 100.00</u>
	Subtotal	<u>\$1,980.00</u>
Less	Partial payment of deposits	<u>\$ 890.50</u>
	Total owing	<u>\$ 1,089.50</u>

The Tenant said they are requesting \$1,089.50 as compensation for the Landlord not returning their full deposits as the Landlord said they would on the move out condition inspection report dated January 31, 2016.

The Landlord said the first they heard of this issue was when they received the Tenants' application in the first part of March, 2016. The Landlord said she did not know what happened. The Landlord continued to say one of the FOB deposits might have been forgotten. The Landlord said the Tenants should have phoned the Landlord.

The Tenant said he did phone the Landlord and he got no response from the Landlord.

The Landlord said she did not know what happened.

The Parties were offered the opportunity to settle this dispute by mediation but the Tenant declined the offer as he said he was frustrated with the Landlord.

Neither party had any closing remarks.

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 Tenants' testimony that they gave the Landlord a forwarding address in writing on the move out condition inspection report dated January 31, 2016. The Landlord did not repay the full security deposit to the Tenants within 15 days of the end of the tenancy or 15 days after receiving the Tenants' forwarding address in writing, nor did the Landlord apply for dispute resolution by March 12, 2016. Consequently I find for the Tenants and grant an order for double the deposits of \$940.00 in the amount of \$1,880.00 ($\$940.00.00 \times 2 = \$1,880.00$) less the partial payment from the Landlord to the Tenants in the amount of \$890.50 for a total amount owing of \$989.50.

As the Tenants were successful in this matter; I order the Tenants pursuant to section 72 of the Act to recover the filing fee of \$100.00 from the Landlord. Pursuant to section 38, 67 and 72 of the Act a monetary order for \$1,089.50 has been issued to the Tenants. This Monetary order represents double the deposits less the partial payment on the deposits plus the filing fee.

Conclusion

I find in favour of the Tenants' monetary claim. Pursuant to sections 38, 67 and 72 of the Act, I grant a Monetary Order for \$1,089.50 to the Tenants. 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: October 18, 2016

Residential Tenancy Branch