



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 479711 ALBERTA LTD. DBA MEADOW LARK HOTEL
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 double the security and pet deposits.

The tenant, an Advocate for the tenant and an agent for the landlord attended the conference call hearing. The parties gave sworn testimony. The parties provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order to recover double the security and pet deposit?

Background and Evidence

The parties agreed that this tenancy started on October 02, 2015 for a month to month tenancy. The tenancy ended on May 03, 2016. Rent for this unit was \$660.00 per month due on the last day of each month in advance. The tenant paid a security deposit of \$330.00 at the start of the tenancy and a pet deposit of \$125.00 was paid in instalments.

The tenant testified that the landlord failed to return the security and pet deposit within 15 days of receiving the tenant's forwarding address in writing. The tenant testified that the forwarding address was provided to the landlord on May 04, 2016 in person to the landlord's agent. The tenant testified that the landlord was not given written permission to keep all or part of the security or pet deposit. The landlord did not return the security or pet deposit and the tenant seeks to have both deposits doubled.

The landlord's agent agreed that she did receive the tenant's forwarding address in writing on May 04, 2016. The landlord agreed the tenants have not provided written permission for the landlord to keep all or part of the security or pet deposit and testified that they retained the deposits for costs towards damage caused at the rental property and for rent. The landlord's agent argued that it is unfair for the tenants to be awarded double the security or pet deposits as they have caused damage and the landlord was not aware they only had 15 days to file an application to keep either of the deposits.

The landlord agreed that they did not complete a move in or move out condition inspection report at the start and end of the tenancy and only a walkthrough of the unit was conducted at the start of the tenancy.

Analysis

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

Sections 23(4) and 35(3) of the *Act* require a landlord to complete a condition inspection report at the beginning and end of a tenancy and to provide a copy of it to the tenant even if the tenant refuses to participate in the inspections or to sign the condition inspection report. In failing to complete the condition inspection reports when the tenant moved in and out, I find the landlord

contravened s. 23(4) and 35(3) of the *Act*. Consequently, s. 24(2)(c) and s. 36(2)(c) of the *Act* says that the landlord's right to claim against the security or pet deposit for damages is extinguished.

Therefore, based on the above and the evidence presented I find that the landlord did receive the tenant's forwarding address in writing on May 04, 2016. As a result, the landlord had until May 19, 2016 to return all of the tenant's security and pet deposit or file a claim to keep it. As the landlord failed to do so, the tenant has established a claim to have the security and pet deposit doubled to an amount of **\$910.00**, pursuant to section 38(6)(b) of the *Act*. There has been no accrued interest on the security deposit for the term of the tenancy.

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 **\$910.00**. The Order must be served on the Respondent. If the Respondent fails to comply with the Order, the Order is enforceable through the Provincial 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: November 30, 2016

Residential Tenancy Branch