



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD FF

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, received at the Residential Tenancy Branch on August 9, 2016 (the "Application"). The Tenants applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order for money owed or compensation for damage or loss;
- an order compelling the Landlord to return all or part of the security deposit or pet damage deposit;
- an order granting recovery of the filing fee.

The Tenants were represented at the hearing by the Tenant O.N.J., who provided affirmed testimony. The Landlords did not attend the hearing.

On behalf of the Tenants, O.N.J. testified the Application package, including the Notice of a Dispute Resolution Hearing and documentary evidence, was served on the Landlord by registered mail on August 12, 2016. In support, the Tenants submitted into evidence copies of Canada Post registered mail receipts bearing that date. Pursuant to sections 89 and 90 of the *Act*, documents served in this manner are deemed to be received five days later. I find the Tenants' Application package is deemed to have been received by the Landlords on August 17, 2016.

The Tenant O.N.J. was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

Issues to be Decided

1. Are the Tenants entitled to a monetary order for money owed or compensation for damage or loss?
2. Are the Tenants entitled to an order compelling the Landlord to return all or part of the security deposit or pet damage deposit?
3. Are the Tenants entitled to an order granting recovery of the filing fee?

Background and Evidence

The Tenant O.N.J. provided oral testimony concerning the terms of the tenancy. She stated the tenancy began on December 1, 2015. Rent in the amount of \$1,000.00 per month was due on the first day of each month. The Tenants paid a security deposit of \$500.00 to the Landlords, which the Landlords have retained.

The Tenant O.N.J. testified the Tenants provided the Landlords with their forwarding address in writing by registered mail on July 18, 2016. Included with the Tenants' documentary evidence was a copy of a type-written letter that requested the return of the security deposit and provided a forwarding address. Also submitted with the Tenants' documentary evidence was a copy of a Canada Post registered mail receipt, dated July 18, 2016.

The Tenant O.N.J. confirmed that the Landlords have not returned the security deposit to the Tenants.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after the latter of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing.

Further, section 38(6) confirms that, if a landlord does not comply with section 38(1), the landlord may not make a claim against the security deposit or pet damage deposit, and must pay the tenant double the amount of the security deposit or pet damage deposit, or both.

In this case, the Tenants testified that they provided the Landlord with their forwarding address in writing by registered mail on July 18, 2016. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received five days later. I find the Landlords are deemed to have received the Tenants forwarding address in writing on July 23, 2016. Accordingly, the Landlords had until August 7, 2016, to return the Tenants' security deposit to them, but have not done so.

Pursuant to section 38(6) of the *Act*, I grant the Tenants a monetary award of \$1,000.00, which is double the amount of the security deposit retained by the Landlord. In addition, having been successful, I find the Tenants are entitled to a monetary award of \$100.00 as recovery of the filing fee paid to make the Application.

Pursuant to section 67 of the *Act*, I grant the Tenants a monetary order in the amount of \$1,100.00.

Conclusion

The Tenants are granted a monetary order in the amount of \$1,100.00. This order may be enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: February 8, 2017

Residential Tenancy Branch