



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0856838 BC Ltd. and Elizabeth Poon
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order comprised of return of his security deposit. The hearing was conducted via teleconference and was attended by only by the tenant applicant.

Issue(s) to be Decided

Whether the tenant is entitled to a monetary order for all or part of the security deposit; and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the respondents were served with the notice of this hearing by registered mail on or about January 28, 2017 as confirmed by Canada Post's Web site. Based on the above, I find that the respondents have been served with the notice of hearing documents pursuant to the *Residential Tenancy Act (Act)*.

The tenant testified the tenancy began on April 19, 2016 with a monthly rent of \$ 8,500.00 due on the 1st of each month and that a security deposit of \$ 4,250.00 was paid on April 18, 2016. The tenancy ended when the tenant moved out on December 1, 2016.

The tenant testified that he texted his forwarding address to the landlords on or about December 15, 2016 and that one of the respondents confirmed receipt of his text and that they would ask their accounting department to deal with the matter.

The tenant testified that he also emailed one of the respondents his address on January 4, 2017.

The tenant testified that to date he has not received any portion of his deposit nor has he given any of the respondents permission to retain any of his deposit. The tenant requested the return of his deposit.

Analysis

Section 38(4) states that the landlord may retain an amount from a security deposit if at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant. There was no evidence before me that the landlords had any written agreement from the tenant at the end of the tenancy regarding the retention of the deposit.

Section 38(1) of the *Act* stipulates that the landlord must, within 15 days of the end of the tenancy or receipt of the tenant's forwarding address, return the security deposit to the tenant or file an Application for Dispute Resolution to claim against the security deposit for any damage or loss the landlord may have incurred.

I accept the tenancy ended on or before December 1, 2016 and that the tenant provided his forwarding address in writing to the landlord by mid-December 2016 and again on January 4, 2017. To be compliant with Section 38(1) the landlords would have to return the security deposit to the tenant, or their own application no later than December 31, 2016 or 15 days after acknowledging receipt of the text message proving the address.

I find that as the landlord failed to comply with section 38 (1) therefore I award the tenant double the amount of the security deposit held pursuant to section 38(6) amounting to \$ 8,500.00.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$ 8,600.00** comprised of double the security deposit; and the \$ 100.00 fee paid by the tenant for this application. This order and decision must be served on the landlords. If the landlords fail to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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: March 14, 2017

Residential Tenancy Branch