



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 676776 B.C. LTD. carrying on business as RESIDENTIAL REAL ESTATE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, OLC

Introduction

The tenant applies to recover a \$900.00 security deposit and a \$900.00 pet damage deposit.

Both parties attended the hearing, the landlord by its two representatives, and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

It was discerned that the landlord is the numbered company. The style of cause has been amended accordingly.

Issue(s) to be Decided

Is the landlord entitled to retain any portion of the deposit money?

Background and Evidence

The rental unit is a three bedroom duplex. There is a written tenancy agreement though a copy was not filed by either side. The tenancy started in December 2014 and ended August 31, 2016. The monthly rent had been \$1800.00. The tenant paid and the landlord still holds a \$900.00 security deposit and a \$900.00 pet damage deposit.

The tenant provided the landlord with her forwarding address in writing on August 31, 2016 at the move-out inspection.

The landlord does not have written authorization from the tenant to retain any portion of her deposit money nor does the landlord have an order under the *Residential Tenancy Act* (the “*Act*”) to keep any of it.

Mr. K.R. for the landlord testifies that the carpets were ruined and required replacement, the tenant failed to mow the lawn and that it took twelve hours to clean the premises after the tenant left.

Analysis

The landlord has not brought its own application for a monetary award for the condition of the premises. Its claim cannot be considered at this hearing. It is free to make its own application against the tenant for a monetary award.

At present the landlord has no lawful right to retain any of the deposit money. The tenant is entitled to its return.

Section 38 of the *Act* provides that once a tenancy has ended and once the tenant has given her forwarding address in writing, the landlord has a fifteen day period to either repay the deposit money or to make an application to keep all or a portion of it for unpaid rent, repairs, cleaning or the like. A landlord who fails to act within that fifteen day period must account to its tenant for double the amount of the deposit money remaining at the end of the tenancy.

This section is intended to penalize a landlord for unilaterally retaining deposit money past the fifteen day period.

In this case the tenant has not requested the doubling effect of s. 38. Residential Tenancy Policy Guideline 17, “Security Deposit and Set off [*sic*]” requires that the doubling be awarded to a tenant even where she has not claimed it, unless the tenant specifically declines the doubling. The question was put to the tenant at the hearing and she declined to decline the doubling.

As a result, the tenant is entitled to return of her \$1800.00 deposit money doubled to \$3600.00.

She has not claimed recovery of any filing fee in her application. The tenant will have a monetary order against the landlord in the amount of \$3600.00.

Conclusion

The tenant's application is allowed.

This decision was rendered orally at hearing and 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 08, 2017

Residential Tenancy Branch