



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD OLC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, dated May 31, 2017 (the "Application"). The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order compelling the Landlords to return all or part of the security deposit or pet damage deposit;
- an order that the Landlords comply with the *Act*, regulations or a tenancy agreement.

The Tenant attended the hearing on her own behalf and was accompanied by her father, T.C. The Landlords also attended the hearing. All parties giving oral testimony provided a solemn affirmation.

The Tenant testified the Application package was served on the Landlord by registered mail on June 1, 2017. No documentary evidence was submitted in support. The Landlords testified they did not receive notice of the hearing until July 26, 2017, at which time they were contacted by the Residential Tenancy Branch to reschedule the hearing. However, after a discussion with the Landlords, during which they were advised of the nature of the Tenant's Application and the absence of documentary evidence, they confirmed they were prepared to continue with the hearing based on the parties' oral testimony.

The parties were given an opportunity to present evidence 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. Is the Tenant entitled to an order compelling the Landlords to return all or part of the security deposit or pet damage deposit?
2. Is the Tenant entitled to an order that the Landlords comply with the *Act*, regulations or a tenancy agreement?

Background and Evidence

The parties agreed the tenancy began on December 1, 2016, and ended on April 30, 2017. Although rent was initially \$650.00 per month, it was reduced during the tenancy to \$500.00 per month. The Tenant paid a security deposit of \$325.00 and a pet damage deposit of \$325.00.

The parties agreed the Tenant's father provided the Landlords with the Tenant's address in writing at a hotel. The parties could not recall the date this occurred. The parties also agreed that the Tenant subsequently provided the Landlord with her forwarding address, which was her new residential address, via text message on May 13, 2017. During the hearing, T.V. checked his phone and confirmed the Tenant's forwarding address was received on that date. The Landlord confirmed the security deposit and pet damage deposit were not returned to the Tenant due to some damage in the rental unit.

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* confirms a landlord does not have the right to arbitrarily retain a security or a pet damage deposit. Rather, this provision requires a landlord to either repay any security or pet damage deposits to a tenant, or make a claim against them by filing an application for dispute resolution. A landlord has 15 days after receiving the tenant's forwarding address in writing to do so.

Further, section 38(6) of the *Act* confirms that, if a landlord does not comply with section 38(1), the landlord may not make a claim against the deposits, and must pay the tenant double the amount of the deposits.

In this case, the parties agreed the Tenant paid security and pet damage deposits totalling \$650.00. Further, the parties agreed that the Tenant provided her forwarding address to the Landlords no later than May 13, 2017. However, the Landlords have not returned the deposits to the Tenant and have not made a claim against the deposits by filing an application for dispute resolution.

The Landlord has not complied with section 38(1) of the Act. Accordingly, pursuant to section 67 of the Act, I find the Tenant is entitled to a monetary order in the amount of \$1,300.00, which is double the amount of the deposits retained by the Landlords.

Conclusion

I grant the Tenant a monetary order in the amount of \$1,300.00. The order may be filed in and 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: July 28, 2017

Residential Tenancy Branch