



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on July 18, 2017 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlord return all or part of the security deposit or pet damage deposit; and
- an order granting recovery of the filing fee.

The Tenant and the Landlord attended the hearing in person. Both provided affirmed testimony.

The Tenant testified the Application package was served on the Landlord by registered mail on July 24, 2017. The Landlord acknowledged receipt. The Landlord testified the documentary evidence upon which she intended to rely was served on the Tenant by registered mail on December 20, 2017. Neither party raised any issues with respect to service or receipt of the above documents during the hearing. Accordingly, pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were 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. Is the Tenant entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?
2. Is the Tenant entitled to an order granting recovery of the filing fee?

Background and Evidence

The parties agreed the tenancy began in October 2011 and ended on June 30, 2017, at which time the Tenant vacated the rental unit. At the end of the tenancy, rent was due in the amount of approximately \$1,684.00 per month. The parties agreed further that the Tenant paid a security deposit of \$900.00, which is held by the Landlord.

The Tenant testified she provided the Landlord with her forwarding address in writing on June 30, 2017. In support, the Tenant submitted a hand-written note that included her forwarding address into evidence. The Landlord acknowledged receipt on that date by signing and dating the note.

During the hearing, the Landlord acknowledged receipt of the Tenant's forwarding address on June 30, 2017. However, she testified she was not prepared to return the full amount of the deposit until the cost to repair certain damage was known. In written submissions, the Landlord referred to issues with the condition of the back yard and walls 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* requires a landlord to repay the deposits or make an application to keep them by making an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the amount of the deposits.

In this case, the parties agreed, and I find, that the Landlord received the Tenant's forwarding address in writing on June 30, 2017. Accordingly, the Landlord had until July 15, 2017, to return the security deposit to the Tenant or make a claim against it by filing an application for dispute resolution. The Landlord did neither. Pursuant to section 38(6) of the *Act*, I find the Tenant is entitled to recover double the amount of the security deposit from the Landlord.

Based on the above analysis, and pursuant to section 67 of the *Act*, I find the Tenant is entitled to a monetary order in the amount of \$1,900.00, which is comprised of \$1,800.00 for double the amount of the security deposit (\$900.00 x 2) plus \$100.00 in recovery of the filing fee paid to make the Application.

Conclusion

The Tenant is granted a monetary order in the amount of \$1,900.00. 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: January 11, 2018

Residential Tenancy Branch