



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD / FFT

Introduction

On April 15, 2018, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") requesting a Monetary Order for the return of their Security Deposit and to recover the cost of the Filing Fee. The matter was set for a participatory hearing via conference call.

The Landlord and Tenants attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the details of the Notice of Hearing and the documentary evidence that the Tenant's provided.

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

Should the Landlord return the full security deposit to the Tenants?
Should the Tenants be reimbursed for the Filing Fee?

Background and Evidence

The Landlord and the Tenants agreed that the tenancy began on August 1, 2016 as a one year, fixed-term agreement that continued as a month-to-month tenancy after August 2017. The rent of \$1,300.00 was due on the first of each month and the Landlord collected a security deposit of \$650.00 at the beginning of the tenancy. Utilities, that included water, electricity and heat were part of the rent.

Tenant's Evidence:

The Tenants testified that the Landlord served the Tenants a Two-Month Notice to End Tenancy for Landlord's Use as the Landlord had planned to demolish the rental unit. As the house was being demolished, the Landlord did not ask them to clean the rental unit, nor did she arrange to inspect the rental unit. The Tenants moved out on the vacate date of February 1, 2018, returned the keys to the Landlord and received a cheque for \$450.00. The Landlord explained that she was keeping \$200.00 of the Tenant's security deposit in compensation for the utilities during the last month when the Tenants did not pay rent.

On February 20, 2018, the Tenants sent the Landlord a letter, via registered mail, requesting the return of the \$200.00 balance of the security deposit and providing their forwarding address.

Landlord's Evidence:

The Landlord acknowledged that she did not serve the Tenants with any of the documentary evidence that she provided to the Residential Tenancy Branch.

The Landlord testified that on February 1, 2018, she returned \$450.00 of the \$650.00 security deposit to the Tenants. She kept \$200.00 in case the rental unit was dirty and days later, determined the rental unit required six hours of cleaning. The Landlord left for India on February 4, 2018 and returned on February 24, 2018. She stated that she intended on contacting the Tenants upon her return to discuss any concerns; however, learned of the hearing and did not return the balance of the security deposit or apply for Dispute Resolution.

The Landlord stated that she needed to clean the rental unit as some of her family moved in, on a temporary basis, prior to the demolition of the rental unit.

Analysis

Section 38 of the Act states that the Landlord has fifteen days, from the later of the day the tenancy ends or the date the Landlord received the Tenant's forwarding address in writing to return the security deposit to the Tenant, reach written agreement with the Tenant to keep some or all of the security deposit, or make an Application for Dispute Resolution claiming against the deposit. If the Landlord does not return or file for Dispute Resolution to retain the deposit within fifteen days, and does not have the

Tenant's agreement to keep the deposit, the Landlord must pay the Tenant double the amount of the deposit.

I accept the Tenants' undisputed testimony and evidence that they requested the \$200.00 balance of the security deposit and notified the Landlord of their forwarding address on February 25, 2018 in accordance with Sections 88 and 90 of the Act.

I have no evidence before me that the Landlord returned the balance of the security deposit, reached written agreement with the Tenants to keep some of the security deposit or made an Application for Dispute Resolution claiming against the deposit. For these reasons, I find the Landlord must reimburse the Tenants twice the amount of the outstanding security deposit for a total of \$400.00, pursuant to Section 38 of the Act.

The Tenants' Application has merit and they should be reimbursed for the \$100.00 Filing Fee for this Application for Dispute Resolution.

Conclusion

I grant the Tenants a Monetary Order for the balance of \$500.00. In the event that the Landlord does not comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia Small Claims Court and 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: June 04, 2018

Residential Tenancy Branch