



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Tenant for the return of a double the security and pet deposits, for compensation for loss or damage under the Act, regulations or tenancy agreement and to recover the filing fee.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by in person on July 14, 2018 and by registered mail on July 15, 2018. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absences.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of double the security and pet deposits?
2. Is there a loss or damage to the Tenant and if so how much?
3. Is the Tenant entitled to compensations for the loss or damage and if so how much?

Background and Evidence

This tenancy was to start on June 1, 2018 but the Tenant decided to end the tenancy right after it started. The Tenant said the tenancy agreement was signed May 21, 2018 and she wrote the Landlord a letter with the notice to end tenancy on May 22, 2018. Rent was indicated as \$1,600.00 per month payable in advance of the 1st day of each month. The tenancy was to be on a month to month basis. The Tenant said she paid a security deposit of \$800.00 and a pet deposit of \$400.00 on May 21, 2018.

The Tenant said after signing the tenancy agreement and paying the deposits she noticed some irregular things. There were some broken windows in the basement and

one room appeared to have smoke damage. After seeing these things she decided to talk to the neighbours about the Landlord and the area. The Tenant submitted a letter from one of the neighbours saying the Landlord was a needle pusher, the Landlord may be by-polar, the previous tenants said there has been a number of break ins to the unit and he would not recommend renting the unit. The Tenant said she has a son and a dog and she believed the rental unit was unsafe so she gave her notice to end the tenancy in writing on May 22, 2018.

The Tenant said the Landlord did not return any of her security or pet deposits. Consequently, she has now applied for double her security and pet deposits back in the amount of $\$800.00 + \$400.00 = \$1,200.00 \times 2 = \$2,400.00$. The Tenant said she understands this is what the Act says.

Further the Tenant said she has applied for \$235.42 in costs that she has incurred to prepare for the hearing and to assist her in collecting compensations from the Landlord. These cost included registered mail costs, land title searches and court costs and fees.

The Tenant also requested to recover the filing fee of \$100.00 if she is successful.

Analysis

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I accept the Tenant's testimony that she gave the Landlord a notice to end tenancy on May 22, 2018 and a forwarding address in writing on May 22, 2018. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenant's forwarding address in writing, nor did the Landlord apply for dispute resolution by July 15, 2018. Consequently I find for the Tenant and grant an order for double the security and pet deposits of \$800.00 and \$400.00 in the amount of $\$1,200.00 \times 2 = \$2,400.00$.

With regard to the Tenant's claims for costs related to preparation for the hearing and costs to assist in collecting debts from the Landlord. These costs are not covered under the Residential Tenancy Act. Therefore I dismiss hearing preparation costs and collection costs in the amount of \$235.42 with out leave to reapply.

As the Tenant has been partially successful in this matter so I also order the Tenant to recover the filing fee of \$100.00 from the Landlord. Pursuant to section 67 a monetary order for \$2,500.00 has been issued to the Tenant. This Monetary order represents double the security and pet deposits in the amount of \$2,400.00 and the filing fee of \$100.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$2,500.00 to the Tenant. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims court) 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: October 29, 2018

Residential Tenancy Branch