



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, made on March 4, 2018 (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 at the appointed date and time, and provided affirmed testimony.

The Tenant testified that the Application package was served on the Landlord by registered mail on March 10, 2018. The package was marked as "unclaimed" and returned to the Tenant. A photograph of a date-stamped envelope with a Canada Post registered mail sticker was submitted in support. Pursuant to section 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Application package is deemed to have been received by the Landlord on March 15, 2018.

The Landlord did not submit documentary evidence in response to the Application.

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 recover the filing fee?

Background and Evidence

The parties agreed the tenancy began on June 1, 2017, and ended on August 31, 2017. During the tenancy, rent was due in the amount of \$1,600.00 per month. The Tenant paid a security deposit of \$800.00 and a pet damage deposit of \$800.00, which the Landlord holds.

The Tenant testified he provided the Landlord with his forwarding address writing by text message on August 31, 2017. The Tenant submitted a screen print of a text message to the Landlord, dated August 31, 2017, in which he provided a photograph of a hand-written letter to the Landlord.

The Tenant testified he subsequently sent his forwarding address to the Landlord by registered mail on October 14, 2017. A copy of the hand-written letter, dated October 14, 2017, was submitted into evidence, and was supported by a photograph of an envelope bearing a Canada Post registered mail sticker, which indicated the package was “refused” by the Landlord.

In reply, the Landlord testified the Tenant and his dogs caused extensive damage to the new rental unit and property. She stated the condition of the rental unit at the end of the tenancy was “deplorable”. In addition, the Landlord testified there was damage to the yard, fence, and electrical system. Neighbours complained to her about the Tenant. The Landlord repeated on several occasions that she had no intention of returning the security and pet damage deposits to the Tenant.

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 deposits or make an application to keep them by making a claim against them by filing an application for dispute resolution within 15 days after receiving 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. The language in the *Act* is mandatory.

I find the Tenant provided the Landlord with his forwarding address in writing by text message on August 31, 2017. Further, I find the Tenant provided the Landlord with his forwarding address in writing by registered mail on October 14, 2017. Pursuant to sections 88 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Landlord is deemed to have received the Tenant's forwarding address in writing for the second time on October 19, 2017. However, both parties confirmed that the security and pet damage deposits have not been returned to the Tenant.

Pursuant to section 38(6) of the *Act*, I find the Tenant has demonstrated an entitlement to double the amount of the security and pet damage deposits held by the Landlord. Having been successful, I also find the Tenant is entitled to recover the \$100.00 filing fee paid to make the Application. Therefore, pursuant to section 67 of the *Act*, I grant the Tenant a monetary order in the amount of \$3,300.00, which is comprised of \$3,200.00 for double the security and pet damage deposits and \$100.00 for recovery of the filing fee.

Conclusion

The Tenant is granted a monetary order in the amount of \$3,300.00. 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: September 21, 2018

Residential Tenancy Branch