



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD, FFT

Introduction

On June 27, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a Monetary Order for the return of the 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 the Tenant 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 Tenant testified that he forwarded his evidence package with the Notice of Hearing to the Landlord, via registered mail, on June 27, 2018. According to the Canada Post website, a notice card was left at the Landlord’s address; however, the package was not picked up and was eventually returned to the Tenant. I find that the Tenant served the Landlord the Notice of Hearing package and the accompanying evidence, in accordance with Section 89 of the Act. The Landlord stated that they did not submit any evidence for this hearing.

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 Tenant receive the balance of his security deposit, in accordance with Sections 38 and 67 of the Act?

Should the Tenant receive compensation for the cost of the filing fee, in accordance with Section 72 of the Act?

Background and Evidence

Although there was no Tenancy Agreement submitted, the Landlord and the Tenant agreed on the following terms of the tenancy:

The most recent tenancy began as a two-month, fixed term on April 1, 2018 and ended on June 1, 2018. The rent was \$1,600.00 and the Landlord collected a security deposit of \$800.00. Both parties acknowledged that the tenancy began approximately 2 years prior and that the Tenant had moved into a 2-bedroom rental unit with other tenants and that some of the tenants had changed during that time. The Landlord collected the security deposit prior to the most recent Tenancy Agreement.

The Landlord testified that during the move-out inspection, everything looked good in the rental unit; however, after the tenants had left, the Landlord noticed that the oven required cleaning and that it cost about \$50.00 to clean. The Landlord stated that an amount was deducted from the security deposit; but could not say how much was deducted or how much of the security deposit was returned to the various tenants. The Landlord stated that they retained a portion of the security deposit based on consent they received, via text messages, from the roommates of the Tenant.

The Tenant testified that he moved out of the rental unit on June 1, 2018 and provided his forwarding address, by leaving it in the Landlord's mailbox, on June 4, 2018. The Tenant stated that he did not provide consent for the Landlord to retain any of the security deposit. The Tenant submitted an image of an e-transfer as evidence and stated that he received an e-transfer from the Landlord on June 17, 2018 for a portion of the security deposit, in the amount of \$287.50. The Tenant stated that he did not know if his roommates provided consent to have a portion of their own security deposit retained by the Landlord, nor does the Tenant know how much was returned to the roommates.

The Tenant submitted a Monetary Order Worksheet and stated that his portion of the security deposit was \$450.00, and that the Landlord failed to return \$162.50. The Tenant is claiming double the amount of the unreturned security deposit (2 x \$162.50) for a total of \$325.00.

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, or other authority under the Act, the Landlord must pay the Tenant double the amount of the deposit.

I accept the Tenant's undisputed testimony and evidence that they notified the Landlord of their forwarding address on June 7, 2018 in accordance with Sections 88 and 90 of the Act.

The Landlord testified that they reached an agreement, via text, with the Tenant's roommates about retaining a portion of the security deposit. However, the Landlord was unable to provide any details or supporting evidence regarding the content of the text, the portion of the security deposit retained, the portion of the security deposit that was returned, or to whom it was returned. I have no evidence before me that the Landlord returned the balance of the security deposit to the Tenant, made an Application for Dispute Resolution claiming against the deposit or reached written agreement with the Tenant to retain any portion of the security deposit. For these reasons, I find the Landlord must reimburse the Tenant double the amount of the outstanding security deposit for a total of \$325.00, pursuant to Section 38 of the Act.

The Tenant's Application has merit and I find that the Tenant should be compensated for the filing fee, in the amount of \$100.00.

Conclusion

I grant the Tenant a Monetary Order for the amount of \$425.00, in accordance with Section 67 of the Act. 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: November 05, 2018

Residential Tenancy Branch