



Dispute Resolution Services

Page: 1

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 June 28, 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 and/or pet damage deposit; and
- an order granting recovery of the filing fee.

The Tenant attended the hearing and provided affirmed testimony. The Landlord did not attend the hearing.

The Tenant testified the Application package and documentary evidence were served on the Landlord by registered mail on July 4, 2018. A tracking number was provided by the Tenant. During the hearing, the Canada Post website was used to confirm that a package was sent to the Landlord on July 4, 2018. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. I find the Application package and documentary evidence are deemed to have been received on July 9, 2018.

The Tenant was 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 and/or pet damage deposit?
2. Is the Tenant entitled to an order granting recovery of the filing fee?

Background and Evidence

The Tenant confirmed the tenancy began on March 1, 2018, and ended on June 1, 2018. During the tenancy, rent was due in the amount of \$695.00 per month. The Tenant paid a security deposit of \$350.00, which the Landlord holds.

The Tenant requested the return of his security deposit. He testified he provided the Landlord with his forwarding address in writing by registered mail on June 7, 2018. Using a tracking number provided by the Tenant during the hearing, the Canada Post website was accessed to confirm that a package was sent to the Landlord on June 7, 2018. A copy of the type-written note requesting the return of the security deposit and including a forwarding address was submitted into evidence by the Tenant.

Analysis

Based on the unchallenged 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 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. In this case, I find the Tenant provided the Landlord with his forwarding address in writing by registered mail on June 7, 2018. Therefore, pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days later. I find the Tenant's forwarding address is deemed to have been received by the Landlord on June 12, 2018. Accordingly, pursuant to section 38(1) of the *Act*, the Landlord had until June 27, 2018, to repay the deposit or make an application for dispute resolution. It appears the Landlord did neither.

In light of the above, and pursuant to section 38(6) of the *Act*, I find the Tenant is entitled to an award of double the amount of the security deposit, or \$700.00. Having been successful, I also find the Tenant is entitled to recover the filing fee paid to make the Application.

Pursuant to section 67 of the *Act*, I find the Tenant is entitled to a monetary order in the amount of \$800.00, which is comprised of \$700.00 for double the amount of the security deposit and \$100.00 in recovery of the filing fee.

Conclusion

The Tenant is granted a monetary order in the amount of \$800.00. The order may be filed in and enforced as an order of the Provincial Court of BC (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: November 9, 2018

Residential Tenancy Branch