



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1089131 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened pursuant to the Tenant's Application for Dispute Resolution, made on October 10, 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 at the appointed date and time, and provided affirmed testimony. The Landlord was not represented at the hearing.

The Tenant testified that the Landlord was served with the Application package by registered mail on October 12, 2018. A Canada Post customer receipt was submitted in support. 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 is deemed to have been received by the Landlord on October 17, 2018.

The Tenant was given a full 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 recover the filing fee?

Background and Evidence

The Tenant testified the tenancy began on December 1, 2016, and ended on June 1, 2018. Rent was due in the amount of \$1,500.00 per month. The Tenant paid a security deposit of \$725.00 and a pet damage deposit of \$725.00, which the Landlord holds.

The Tenant claims \$1,450.00 for the return of the security deposit and pet damage deposit. The Tenant testified that she initially provided the Landlord with her forwarding address an email. However, the Landlord advised it had to be in writing. Accordingly, the Tenant provided the Landlord with her forwarding address by delivering a piece of paper containing her forwarding address in person on or about June 14, 2018.

It appears the Landlord received the Tenant's forwarding address. The Tenant submitted into evidence a copy of a letter from the Landlord to the Tenant, dated June 22, 2018. The letter appears to have been related to the Tenant's vehicle but was addressed to the Tenant at her forwarding address. The Tenant confirmed the address on the letter continues to be her residential address. The Tenant testified that no part of the security deposit and pet damage deposit has been repaid to her.

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 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 and is intended to discourage landlords from arbitrarily retaining deposits with no legal basis for doing so.

In this case, I am satisfied the Tenant provided the Landlord with her forwarding address in writing and that it was received by the Landlord by June 22, 2018, at the latest. Therefore, pursuant to section 38(1) of the *Act*, the Landlord had until July 7, 2018, to repay the deposits to the Tenant or apply to keep them by making an application for dispute resolution. There is no evidence before me to enable me to find the Landlord did either. Therefore, pursuant to section 38(6) of the *Act*, I find the Tenant is entitled to recover double the amount of the security deposit and pet damage deposit held, or \$2,900.00. Having been successful, I also find the Tenant is entitled to recover the \$100.00 filing fee paid to make the Application.

Pursuant to section 67 of the *Act*, I grant the Tenant a monetary order in the amount of \$3,000.00, which is comprised of \$2,900.00 for the return of double the amount of the deposits, plus \$100.00 in recovery of the filing fee.

Conclusion

The Tenant is granted a monetary order in the amount of \$3,000.00. 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: February 4, 2019

Residential Tenancy Branch