



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on December 10, 2018 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- a monetary order for money owed or compensation for damage or loss; and
- an order that the Landlord return all or part of the security deposit and/or pet damage deposit.

The Tenant attended the hearing on his own behalf. The Landlord was represented at the hearing by S.S., an agent. The Tenant and S.S. provided affirmed testimony.

The Tenant testified the Application package was served on the Landlord by leaving it at the Landlord's office. S.S. acknowledged receipt. Further, on behalf of the Landlord, S.S. testified the Landlord's documentary evidence was served on the Tenant by registered mail. The Tenant acknowledged receipt.

No issues were raised during the hearing with respect to service or receipt of the above documents. The parties were in attendance and were prepared to proceed. Therefore, pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

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 a monetary order for money owed or compensation for damage or loss?
2. Is the Tenant entitled to the return of the security deposit and/or pet damage deposit?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed that a fixed-term tenancy began on February 1, 2018, and was expected to continue to January 31, 2019. However, the Tenant testified the tenancy ended when he removed his belongings from the unit on or about July 4, 2018. S.S. submitted that the tenancy ended on or about July 31, 2018, at which time the parties completed a move-out condition inspection. In any event, during the tenancy, rent in the amount of \$1,664.00 per month was due on or before the first day of each month. The Tenant was obligated to pay for heating oil. The Tenant paid a security deposit of \$800.00, which the Landlord holds.

The Tenant's claim was set out in the Application. First, the Tenant claimed \$783.27 for furnace oil remaining in the tank at the end of the tenancy. He testified that he paid \$599.95 to fill the oil tank half way at the beginning of the tenancy. In written submissions, the Tenant indicated that "a half tank was delivered on Feb. 8, 2017." An invoice was submitted in support. Further, the Tenant acknowledged that half a tank of oil remained at the end of the tenancy. In written submissions the Tenant confirmed: "When the oil was measured during the final inspection...the tank was almost exactly half full." However, the Tenant submitted he should be reimbursed for the oil he initially purchased at current market rates.

In reply, S.S. did not dispute the Tenant is entitled to \$599.95, which is the value of the oil delivered on February 8, 2017. However, S.S. submitted that the Tenant is responsible to pay for oil used during the tenancy at market rates. S.S. acknowledged the Tenant left half a tank of oil at the end of the tenancy.

Second, the Tenant sought to recover the security deposit held by the Landlord. He testified that the only addresses provided by the Tenant have been with applications for dispute resolution. The Tenant provided his current address during the hearing, which was repeated aloud for the benefit of S.S.

In reply, S.S. testified the Tenant has never provided his forwarding address, other than in applications for dispute resolution documents.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

With respect to the Tenant's claim for \$783.27 for furnace oil, I find there is insufficient evidence before me to conclude the Tenant entitled to recover the current value of the oil purchased on February 8, 2017. The tenancy agreement confirmed the Tenant was obligated to pay for furnace oil. With the reimbursement of \$599.95, which I have ordered below, the Landlord effectively provided half a tank of oil at the beginning of the tenancy. The Tenant used oil at market rates during the tenancy and left half a tank behind. I find it would not be appropriate to compensate the Tenant for the change in value of the oil, which he acknowledged was his obligation to purchase. No doubt the Tenant would oppose an application by the Landlord to recover losses due to a decrease in the price of furnace oil. In any event, S.S. acknowledged the Tenant was owed \$599.95 for the oil purchase on February 8, 2017. I find the Landlord is not obligated to compensate the Tenant for the additional \$12.00 late payment charge indicated on the invoice submitted. Therefore, I find the Tenant is entitled to a monetary award in the amount of \$599.95.

With respect to the Tenant's request for the return of the security deposit, the Tenant acknowledged he did not provide the Landlord with a forwarding address in writing, other than on applications for dispute resolution. I find this is not what was intended under section 38 of the *Act*. However, he did provide his current address during the hearing, which was repeated aloud for the benefit of the Landlord.

In the interest of fairness, I **ORDER THAT**:

- pursuant to section 72(2)(b) of the *Act*, the Landlord is deemed to have been served with the Tenant's forwarding address in writing on April 1, 2019;
- the Landlord has 15 days to deal with the security deposit in accordance with section 38 of the *Act*; and
- the Tenant is granted leave to reapply for the return of the security deposit if it is not dealt with in accordance with section 38 of the *Act*.

Having been successful, I 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 \$699.95, which is comprised of \$599.95 for heating oil and \$100.00 in recovery of the filing fee.

Conclusion

The Tenant is granted a monetary order in the amount of \$699.95. The monetary 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: April 1, 2019

Residential Tenancy Branch