



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit and to recover the filing fee.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on April 5, 2019. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absences.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?

Background and Evidence

This tenancy started on November 4, 2015 as a month to month tenancy. The tenancy ended February 28, 2019. Rent was \$650.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$325.00 on November 5, 2015. No condition inspection reports were complete for this tenancy.

The Tenant said he gave the Landlord written notice in January 2019 that the tenancy was ending on February 28, 2019. The Tenant continued to say the tenancy ended on February 28, 2019 and he gave the Landlord his forwarding address in writing on February 4, 2019. The Tenant said he agreed that the Landlord could retain \$25.00 of the security deposit for a damaged toilet seat. In a text message dated February 4, 2019 submitted into evidence the Landlord agreed to return the Tenant’s security deposit. The Tenant said the Landlord has not returned the security deposit or communicated with the Tenant since he moved out. The Tenant requested the return of \$300.00 of his security deposit and the recovery of the \$100.00 filing fee.

Analysis

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) **must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.**

I find that the Tenant did give the Landlord a forwarding address in writing on February 4, 2019. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenant's forwarding address in writing, nor did the Landlord apply for dispute resolution. Consequently, I find for the Tenant and I award the Tenant double the security deposit less the \$25.00 agreed for the damaged toilet set in the amount of $\$300.00 \times 2 = \600.00 .

Further as the Tenant has been successful in this matter I also order the Tenant to recover the filing fee of \$100.00 from the Landlord. The Tenant will receive a monetary order for \$700.00 representing the doubled security deposit of \$600.00 and the filing fee of \$100.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38, 67 and 72 of the Act, I grant a Monetary Order for \$700.00 to the Tenant. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims court) 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: June 18, 2019

Residential Tenancy Branch