



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD FF

Introduction

This hearing was convened pursuant to an Application for Dispute Resolution made by the Tenant on May 29, 2019 (the “Application”). The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the “Act”):

- a monetary order for monetary loss or other money owed;
- 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 and the Landlord attended the hearing at the appointed date and time, and provided affirmed testimony.

The Tenant testified the Landlord was served with the Application package by registered mail on June 6, 2019. A Canada Post registered mail receipt was submitted into evidence in support. The Landlord acknowledged receipt. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. Therefore, I find the Application package is deemed to have been received by the Landlord on June 11, 2019.

The Landlord submitted evidence in response to the Application. However, the Landlord testified it was served on the Tenant by leaving a copy outside the Tenant’s building, and by email. The Tenant denied receipt. As the Tenant denied receipt of the Landlord’s documentary evidence package, and it was not served in accordance with section 88 of the *Act*, I find that the evidence is excluded from consideration.

The parties were 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, and to which I was referred. 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 monetary loss or other money owed?
2. Is the Tenant entitled to an order that the Landlord return the security deposit and/or pet damage deposit?
3. Is the Tenant entitled to recover the filing fee?

Background and Evidence

The parties could not recall the date the tenancy began but agreed the tenancy began in or about August 2018. The parties also agreed the tenancy ended on April 1, 2019. During the tenancy, rent in the amount of \$1,800.00 per month was due on the first day of each month. The Tenant paid a security deposit in the amount of \$900.00 and a pet damage deposit in the amount of \$900.00. The Tenant testified that she agreed the Landlord could retain \$200.00 from the deposits on account of damage.

The Tenant's claims are set out in the Application. First, the Tenant claims \$328.40 as reimbursement of BC Hydro costs she paid. The Tenant testifies the Landlord was responsible for 40% of the BC Hydro expense. In support, the Tenant submitted a BC Hydro invoice in the amount of \$821.61, dated March 21, 2019. In reply, the Landlord agreed to pay the amount claimed.

Second, the Tenant claims \$1,600.00 for the return of the security and pet damage deposits which she did not agree the Landlord could retain. The Tenant testified she provided the Landlord with a forwarding address in writing. In support, the Tenant submitted a copy of a letter dated April 15, 2019, in which she provided an email address to which she instructed the Landlord to forward the security and pet damage deposits held. During the hearing, the Tenant testified that the Landlord was also provided with her current residential address with the Application. In reply, the Landlord testified that he continues to hold the deposits due to losses he suffered as a result of the condition of the rental unit at the end of the tenancy.

Finally, the Tenant sought an order granting recovery of the filing fee paid to make the Application.

Analysis

In light of the oral and documentary evidence submitted by the parties, and on a balance of probabilities, I find:

With respect to the Tenant's claim for \$328.40 for reimbursement of BC Hydro expenses, the Landlord agreed with this aspect of the claim. Therefore, I find the Tenant is entitled to a monetary award in the amount of \$328.40.

With respect to the Tenant's claim for \$1,600.00 for the return of the security and pet damage deposits, 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, the Tenant has provided only an email address and did not provide a forwarding address in writing as contemplated under the *Act*. I find the *Act* requires a tenant to provide a residential address. Therefore, I find that there has been no obligation on the Landlord to return the deposits to the Tenant. However, during the hearing, the Tenant agreed the residential address provided with the Application is her current residential address. Accordingly, it was explained to the parties that the Landlord is deemed to have received the Tenant's forwarding address in writing on September 12, 2019, the date of the hearing, and must deal with the deposits held in accordance with section 38 of the *Act*. Accordingly, the Tenant's request for an order that the Landlord return the security and pet damage deposits is dismissed, with leave to reapply if the Landlord does not deal with them in accordance with section 38 of the *Act*.

Further, I find it is appropriate in the circumstances to grant the Tenant a monetary award in the amount of \$100.00 in recovery of the 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 \$428.40.

Conclusion

The Tenant is granted a monetary order in the amount of \$428.40. The 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: September 12, 2019

Residential Tenancy Branch