



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened pursuant to the Tenant's Application for Dispute Resolution, made on August 4, 2019 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlords 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 was accompanied by her father, T.B. The Landlords were both represented at the hearing by T.H. The Tenant, T.B., and T.H. provided affirmed testimony.

The Tenant testified the Notice of Dispute Resolution Hearing package was served on the Landlords by registered mail. T.H. acknowledged receipt. In addition, T.H. testified that the documentary evidence relied upon by the Landlords was also served on the Tenant by registered mail. The Tenant acknowledged receipt. No issues were raised during the hearing with respect to service and receipt of the above documents. The parties were in attendance and were prepared to proceed. 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 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 Landlords 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 parties agreed the tenancy began on January 1, 2014 and ended on June 30, 2019. Although neither party could recall the precise amount of rent due during the tenancy, they agreed it was approximately \$780.00 per month. The parties agreed the Tenant paid a security deposit in the amount of \$375.00, which the Landlords hold.

The Tenant testified that a forwarding address was provided to the Landlords in writing on July 15, 2019. The Tenant submitted a copy of a hand-written letter dated July 15, 2019, which included a forwarding address. The Tenant testified the letter was attached to the door of the Landlords' residence on July 15, 2019. A photograph depicting an envelope attached to a door with black tape was submitted in support.

In reply, T.H. testified the Landlords received the Tenant's forwarding address by text message on or about July 8, 2019. T.H. also acknowledged the Landlords received the letter described in the Tenant's evidence. When asked, T.H. testified the security deposit was held to offset the cost of general cleaning in the rental unit, to repair a cracked kitchen sink, and to clean carpeting.

Analysis

Based on the 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 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. The condition of the rental unit at the end of the tenancy is not a relevant consideration on a tenant's application for the return of a security deposit or pet damage deposit.

In this case, I find the tenancy ended on June 30, 2019. Further, I find the Tenant's forwarding address was delivered to the Landlords, at the latest, on July 15, 2019 by posting a copy to the door of the Landlords' residence. T.H. acknowledged receipt of the Tenant's forwarding address in mid-July 2019 but could not recall the precise date. Pursuant sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. Therefore, I find the Tenant's forwarding address is deemed to have been received by the Landlords on July 18, 2019, three days after it was delivered. Therefore, pursuant to section 38(1) of the *Act*, the Landlords had until August 2, 2019, to repay the deposit to the Tenant or make a claim against it by filing an application for dispute resolution. The parties confirmed that the Landlords continue to hold the security deposit. As a result, pursuant to section 38(6) of the *Act*, I find the Tenant is entitled to recover double the amount of the security deposit held by the Landlords, or \$750.00. Having been successful, I also grant the Tenant \$100.00 in recovery of the filing fee paid to make the Application.

Pursuant to sections 38 and 67 of the *Act*, I grant the Tenant a monetary order in the amount of \$850.00.

Conclusion

The Tenant is granted a monetary order in the amount of \$850.00. 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 28, 2019

Residential Tenancy Branch