



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANTAGE WEST REALTY and [tenant
name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for a monetary order for the return of double the security and pet damage deposits of \$993.75, and to recover the \$100.00 cost of their Application filing fee.

The Tenants and an agent, T.G., for the Landlord ("Agent") appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenants and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I asked the Agent for the Landlord's name in this matter, as

the Landlord identified on the Application was not a legal, corporate or other name. The Agent advised me of the owner's name, so I amended the Respondent's name in the Application to reflect this, pursuant to section 64(3)(c) and Rule 4.2.

Issue(s) to be Decided

- Are the Tenants entitled to a monetary order, and if so, in what amount?
- Are the Tenants entitled to recovery of their \$100.00 Application filing fee?

Background and Evidence

The Parties agreed that the fixed term tenancy began on August 1, 2018 and was to run to July 31, 2019, with a monthly rent of \$1,325.00, due on the first day of each month. The Parties agreed that the Tenant paid the Landlord a security deposit of \$662.50 and a pet damage deposit of \$662.50. The Parties agreed in writing that the Landlord could retain \$331.25 of the security deposit at the end of the condition inspection, as set out on the condition inspection report ("CIR"). The Parties agreed that this occurred during the move-out inspection conducted on April 29, 2019, and that the Tenants also provided their forwarding address on the move-out CIR. The Parties agreed that the Tenants vacated the rental unit on April 29, 2019.

The Tenants claim the return of the security and pet damage deposits, because they say the Landlord did not return the remaining deposits to them within 15 days of their having provided the forwarding address to the Landlord in writing. The Agent's evidence is that the Landlord returned the \$993.75 of deposits owing to the Tenants on May 26, 2019 and did not apply to the RTB for dispute resolution, claiming against the security deposit.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

I find that the Tenants vacated the rental unit and ended the tenancy on April 29, 2019, pursuant to section 44(1)(d) of the Act. I find that the Tenants provided their forwarding address to the Landlord on April 29, 2019.

Section 38(1) of the Act states the following about the connection of these dates to a

landlord's requirements surrounding the return of the security deposit:

38 (1) 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.

I find that the Landlord was required to return the \$331.25 security deposit and the \$662.50 pet damage deposit within fifteen days of April 29, 2019, namely by May 13, 2019, or apply for dispute resolution, claiming against the security and pet damage deposits, pursuant to Section 38(1). The Landlord's evidence is that they returned the \$993.75 of deposits owing to the Tenants on May 26, 2019, and did not apply to the RTB for dispute resolution, claiming against the deposits. Therefore, I find the Landlords failed to comply with their obligations under Section 38(1).

Section 38(6)(b) states that if a landlord does not comply with section 38(1) that the landlord must pay the tenant double the amount of the security deposit. There is no interest payable on the security deposit. I find that the Tenants have substantiated their entitlement to the return of double the remaining pet and security deposits of \$993.75, which amounts to \$1,987.50.

After deducting the amount already paid to the Tenants by the Landlord, I, therefore, award the Tenants \$993.75 from the Landlord in recovery of double the security and pet damage deposits. Given that the Tenants were successful in their Application, I also award them recovery of the \$100.00 Application filing fee for a total award of **\$1,093.75**.

Conclusion

The Tenants' claim against the Landlord for return of double the security and pet

damage deposits is successful. The Landlord did not return the Tenants' remaining security and pet damage deposits or apply for dispute resolution within 15 days of the end of the tenancy. I award the Tenants double the amount of the \$993.75 security and pet damage deposits, plus recovery of the \$100.00 Application filing fee, minus the amount already paid to the Tenants after the 15-day deadline.

I grant the Tenant a Monetary Order under section 67 of the Act from the Landlord in the amount of **\$1,093.75**.

This Order must be served on the Landlord by the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: December 13, 2019

Residential Tenancy Branch