



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened pursuant to the Tenants' Application for Dispute Resolution, made on October 11, 2019 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- 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 L.E.P. and the Landlord attended the hearing and provided affirmed testimony.

On behalf of the Tenants, L.E.P. testified the Notice of Dispute Resolution Hearing package was served on the Landlord by registered mail. Canada Post registered mail documents were submitted in support and the Landlord acknowledged receipt. No issues were raised during the hearing with respect to service or receipt of these documents. The parties were in attendance and were prepared to proceed. Therefore, pursuant to section 71 of the *Act*, I find these documents were sufficiently served for the purposes of the *Act*. The Landlord did not submit documentary evidence in response to the Application.

The parties in attendance 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. Are the Tenants entitled to an order that the Landlord return all or part of the security deposit and/or pet damage deposit?
2. Are the Tenants entitled to recover the filing fee?

Background and Evidence

The parties agreed the tenancy began in October 2016 and ended on August 31, 2019. During the tenancy, rent was due in the amount of \$834.00 per month. The Tenants paid a security deposit in the amount of \$500.00 and a pet damage deposit of \$500.00, which the Landlord holds.

On behalf of the Tenants, L.E.P. testified that a forwarding address was provided to the Landlord in writing during a move-out condition inspection that took place on September 2, 2019. The Landlord confirmed in his testimony that the Tenants' forwarding address was received by the property manager on that date. Further, the Landlord testified that the security deposit and pet damage deposit were retained due to the condition of the rental unit at the end of the tenancy. The Landlord testified that the rental unit was not cleaned at the end of the tenancy and needed to be painted. He testified he spent \$3,000.00 to address the problems left by the Tenants. L.E.P. denied the rental unit was not cleaned and testified that she spent about 20 hours cleaning before moving out.

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.

In this case, I find the Tenants' forwarding address in writing was provided to and received by the Landlord through the property manager on September 2, 2019. Therefore, pursuant to section 38(1) of the *Act*, the Landlord had until September 17, 2019, to repay the deposits to the Tenants or make a claim against them by filing an application for dispute resolution. The parties confirmed that the Landlord has not repaid the deposits to the Tenants or made a claim against them by filing application for dispute resolution.

Considering the above, and pursuant to section 38(6) of the *Act*, I find the Tenants are entitled to recover double the amount of the deposits held by the Landlord, or \$2,000.00. Having been successful, I also grant the Tenants \$100.00 in recovery of the filing fee paid to make the Application. As a result, pursuant to sections 38 and 67 of the *Act*, I grant the Tenants a monetary order in the amount of \$2,100.00.

Conclusion

The Tenants are granted a monetary order in the amount of \$2,100.00. 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: March 5, 2020

Residential Tenancy Branch