



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Renzullo Importing Ltd
and [tenant name suppressed to protect privacy]

INTERIM DECISION

Dispute Codes MNSDB-DR, FFT

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the tenant for a Monetary Order for the return of the security deposit and the pet damage deposit (the deposits).

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on April 22, 2020, the tenant sent the landlord the Notice of Direct Request Proceeding by registered mail. The tenant provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that the landlord will be deemed to have been served with the Direct Request Proceeding documents on April 27, 2020, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation for the return of a security deposit and a pet damage deposit pursuant to sections 38 and 67 of the *Act*?

Is the tenant entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by a landlord who is not the applicant and the tenant on December 8, 2015, indicating a monthly rent of

\$1,050.00, a security deposit of \$525.00, and a pet damage deposit of \$525.00, for a tenancy commencing on December 17, 2015 and ending on December 31, 2016;

- A copy of a second residential tenancy agreement which names the applicant landlord and was signed the tenant on March 31, 2016, indicating a monthly rent of \$1,050.00 for a tenancy commencing on April 1, 2016 and ending on December 31, 2016, and stating that the security deposit of \$525.00, and the pet damage deposit of \$525.00 were paid to the landlord on the statement of adjustments at the time of purchase of the unit;
- A copy of a third residential tenancy agreement which names the applicant landlord and was signed by the tenant on December 24, 2016, indicating a monthly rent of \$1,050.00 for a tenancy commencing on January 1, 2017 and ending on June 6, 2017, and stating that the security deposit and the pet damage deposit were paid on at the beginning of a previous agreement;
- A copy of a text message from the tenant to the landlord dated July 30, providing the forwarding address to which the landlord replied via text on July 31;
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that the forwarding address was sent to the landlord by text message at 6:06 pm on July 30, 2019;
- A copy of fifty-nine text messages exchanged between the landlord and the tenant discussing the return of the deposits; and
- A copy of a Tenant's Monetary Order Worksheet for an Expedited Return of Security Deposit and/or Pet Damage Deposit (the Monetary Order Worksheet). showing the amount of deposits paid by the tenant and stating that the tenant vacated the rental unit on July 30, 2019.

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the tenant to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the tenant cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

The tenant stated in a text message dated January 23, 2020 that they received a check from the landlord. However, I find there is no indication of a partial reimbursement of

the deposits on either the Application for Dispute Resolution or the Monetary Order Worksheet.

I find I am not able to determine the particulars of the tenant's Application, and that a participatory hearing is necessary to address this issue.

Conclusion

I order that the direct request proceeding be reconvened in accordance with section 74 of the *Act*. I find that a participatory hearing to be conducted by an arbitrator appointed under the *Act* is required in order to determine the details of the tenant's application.

Notices of Reconvened Hearing are enclosed with this interim decision. The applicant must serve the Notice of Reconvened Hearing, the interim decision, and all other required documents, upon the landlord within three (3) days of receiving this decision in accordance with section 89 of the *Act*.

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the new hearing. Fact sheets are available at <http://www2.gov.bc.ca/assets/gov/housing-and-tenancy/residential-tenancies/information-sheets/rtb114.pdf> that explain evidence and service requirements.

For more information see our website at: gov.bc.ca/landlordtenant. If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

This interim 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: April 23, 2020