



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Karvin Developments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

<u>Dispute Codes</u>	For the landlord:	MND-S, FF
	For the tenant:	MNSD, FF

Introduction

This hearing dealt with the cross applications of the parties for dispute resolution under the Residential Tenancy Act (Act).

On March 20, 2020, the landlord applied for:

- compensation for alleged damage to the rental unit by the tenant and unpaid utilities;
- authority to keep the tenant's security deposit to use against a monetary award; and
- recovery of the filing fee.

On April 16, 2020, the tenant applied for:

- a return of her security deposit; and
- recovery of the filing fee.

The landlord's agent (landlord), the tenant, and counsel attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The parties confirmed receiving the other's evidence, with the exception of the landlord's evidence submitted the day of the hearing. The evidence was a quote for a freezer door replacement.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary or digital evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters-

Near the outset of the hearing, the landlord was advised that their application was being refused, pursuant to section 59(5)(c) of the Act because the landlord's application did not provide sufficient particulars of their claim for compensation, as is required by section 59(2)(b) of the Act. Additionally, Rule 2.5 of the Residential Tenancy Branch Rules of Procedure (Rules) states that the applicant must submit a detailed calculation of any monetary claim being made and copies of all other documentary and digital evidence to be relied on in the proceeding.

Specifically, the landlord failed to provide a breakdown of the amount claimed of \$800 at the time the landlord applied, or at any time from the date of their application.

I find that proceeding with the landlord's monetary claim at this hearing would be prejudicial to the tenant, as the absence of particulars that set out a specific amount would make it impossible to properly respond to the landlord's application. The landlord failed to specify a detailed breakdown of their monetary claim in their application, including the amount of each item, and what each item being claimed represents.

The tenant also submitted that she did not understand the specifics of the landlord's application.

Therefore, the landlord is at liberty to reapply, however, is reminded to provide a detailed breakdown of their monetary claim and are encouraged to use the Monetary Worksheet available Residential Tenancy Branch (RTB) website when submitting an application containing a monetary claim.

I do not grant the landlord the recovery of the cost of the filing fee as a result.

The hearing proceeded on the tenant's application.

Issue(s) to be Decided

Is the tenant entitled to the return of her security deposit and to recovery of the filing fee paid for this application?

Background and Evidence

The evidence showed that the tenancy began on or about September 1, 2019 and ended on or about February 26, 2020. The monthly rent was \$1,875 and the tenant paid a security deposit of \$937.50, which has been retained by the landlord, as they made a claim against it.

The tenant said she provided her written forwarding address to the landlord on March 10, 2020, in a letter dropped into the landlord's mailbox. The letter also requested her security deposit to be returned.

The tenant's monetary claim is in the amount of her security deposit, or \$937.50.

In addition, counsel for the tenant made legal submissions. Counsel submitted that the landlord extinguished their right to claim against the tenant's security deposit as they did not provide the tenant a copy of the move-in condition inspection report (CIR). Further, counsel submitted that the landlord failed to obtain the tenant's signature on the move-out CIR.

Analysis

Section 38 deals with the return of tenant's security deposits.

This section of the Act requires that the landlord must repay the tenant's security deposit or make an application claiming against the security deposit within 15 days of the later of the day the tenancy ends and the date the landlord receives the tenant's written forwarding address.

If a landlord fails to do either, the landlord may not make a claim against the tenant's security deposit and must pay the tenant double the amount of their security deposit.

In the case before me, the undisputed evidence shows that the tenancy ended by February 27, 2020, when the tenant vacated the rental unit and that the landlord was provided the tenant's written forwarding address on March 10, 2020.

The landlord applied for dispute resolution on March 20, 2020, as shown by the Residential Tenancy Branch (RTB) internal systems.

Therefore, the landlord applied within the 15 days of receiving the tenant's written forwarding address on March 10, 2020.

In addressing the tenant's counsel's submissions that the landlord extinguished their right to make a claim against the tenant's security deposit, under sections 24(2) and 36(2), that right was extinguished as to a claim for damage. In this case, the landlord's application also included a claim for cleaning and unpaid utilities.

As I refused to hear the landlord's application for the reasons listed and as the tenant properly provided her written forwarding address to the landlord, I find the tenant is entitled to a return of her security deposit of \$937.50.

I also grant the tenant recovery of her filing fee of \$100.00.

The tenant is therefore granted a monetary order, pursuant to section 67 of the Act, for \$1,037.50, comprised of her security deposit of \$937.50 and the filing fee of \$100.00.

Should the landlord fail to pay the tenant this amount without delay, the tenant must serve the landlord with the monetary order to be enforceable. The order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court.

The landlord is cautioned that costs of such enforcement are recoverable from the landlord.

Conclusion

The landlord's application was refused, pursuant to section 59 of the Act as their application did not provide sufficient particulars.

The tenant's application for monetary compensation for her security deposit and recovery of her filing fee is granted.

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: July 21, 2020

Residential Tenancy Branch