



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hume Investments Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

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

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

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant 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-

There was no evidence before me from the landlord. In response to my inquiry, the agent said that the landlord served evidence to the tenant and to the Residential Tenancy Branch (RTB) after being served the tenant's application. The agent did not provide a specific date when the evidence was submitted or details as to how it was

submitted. The evidence apparently included photos of the rental unit, according to the tenant. The agent did not describe the landlord's evidence.

The landlord was informed that it was my belief that the landlord's evidence was not necessary in consideration of the tenant's application; however, I told the agent that if it became clear I would need the landlord's evidence, I would adjourn the hearing.

As will be shown, I determined that the landlord's evidence was not relevant to my findings.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for the amount of her security deposit and to recovery of her filing fee?

Background and Evidence

The agent said that the tenancy began on February 15, 2019, and ended on February 29, 2020, the day she vacated the rental unit, the monthly rent was \$950 at the beginning and the tenant paid a security deposit of \$437.50.

I note that the tenant's testimony differs from her application, in which she listed her security deposit paid in the amount of \$475.

The landlord said the tenancy ended on March 1, 2020, when the tenant returned the keys.

The tenant submitted a photo of a written letter providing her forwarding address, along with the keys, and provided testimony that she gave the landlord her written forwarding address on February 29, 2020. The tenant submitted that the written forwarding address was placed in the landlord's mailbox attached to her front door.

The landlord confirmed this evidence.

The tenant submitted that the landlord has not returned the security deposit, which caused the application to be filed on April 14, 2020.

The landlord confirmed that the security deposit has not been returned.

The tenant is now requesting that her security deposit be returned, and that it be doubled.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Under section 38(1) of the Act, at the end of a tenancy, unless the tenant's right to a return of their security deposit has been extinguished, a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy.

If a landlord fails to comply, then the landlord must pay the tenant double the security deposit, pursuant to section 38(6) of the Act.

There was no evidence given that either party extinguished their rights towards the tenant's security deposit.

In the case before me, the undisputed evidence shows that the tenancy ended on or before March 1, 2020, and that the landlord received the tenant's written forwarding address in a letter on February 29, 2020. The Act says that unless there is proof to the contrary, documents served by posting on the door are deemed delivered 3 days later. In this case the landlord was deemed to have received the tenant's written forwarding address by March 4, 2020.

Due to the above, I find the landlord was obligated to return the tenant's security deposit, in full, or make an application for dispute resolution claiming against the security deposit by February 19, 2020, 15 days after they were deemed to have received the forwarding address. In contravention of the Act, the landlord kept the security deposit, without filing an application.

I therefore order that the security deposit be returned, and that it must be doubled.

As such, I find the tenant has established a monetary claim of \$875, comprised of her security deposit of \$437.50, doubled to \$875.

I also grant the tenant \$100 for recovery of her filing fee.

I note that due to the landlord's confirmation of the relevant evidence of the tenant, it was not necessary for me to adjourn the hearing in order to receive the landlord's evidence.

Conclusion

The tenant has established a monetary claim in the amount of \$975, which includes her security deposit of \$437.50, doubled to \$875, and \$100 for recovery of her filing fee. I grant the tenant a monetary order in the amount of \$975.

In the event the landlord does not voluntarily comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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

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: August 21, 2020

Residential Tenancy Branch