



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AMORE PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

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 double the security deposit.

The Tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on December 10, 2020, the Tenant sent the Notice of Direct Request Proceeding and supporting documents to the Landlord by registered mail. The Tenant also provided a copy of the Canada Post customer receipt which included 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 is deemed to have received the Direct Request Proceeding documents on December 15, 2020, five days after they were mailed.

Issues to be Decided

1. 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*?
2. 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 fixed-term residential tenancy agreement which commenced on January 1, 2020 and ended on March 31, 2020, signed by the Landlord and the Tenant on January 7, 2020, indicating a monthly rent of \$850.00 and a security deposit of \$850.00;
- Copy of undated electronic transfer receipts from the Tenant to the Landlord totaling \$850.00;
- Copies of text message exchanges dated March 18 and 19, 2020, in which the Landlord confirms the security deposit will be sent to the Tenant;
- A copy of a letter from the Tenant to the Landlord dated April 20, 2020, providing the forwarding address and requesting the return of the security deposit;
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form which indicates that the forwarding address was sent to the Landlord's address for service as indicated on the tenancy agreement by registered mail at 3:45 p.m. on April 21, 2020;
- A copy of a Canada Post customer receipt containing the Tracking Number to confirm the forwarding address was sent to the Landlord on April 21, 2020; and
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposit paid by the Tenant and suggesting the tenancy ended on March 16, 2020.

Analysis

Section 38(1) of the *Act* states that a landlord has fifteen days from the end of tenancy and the date they received the forwarding address to either return deposits in full or make an application for dispute resolution claiming against the deposits.

Section 38(6) of the *Act* states that if the landlord does not return the deposits or file a claim against them within the fifteen days, the landlord must pay the tenant double the amount of the deposits.

I have reviewed all documentary evidence and I find that the Tenant paid a security deposit in the amount of \$850.00 as per the tenancy agreement and electronic transfer receipts.

I accept the following declarations made by the Tenant on the Tenant's Direct Request Worksheet:

- The Tenant has not provided consent for the Landlord to keep all or part of the deposits;
- There are no outstanding monetary orders against the Tenant for this tenancy; and
- The Tenant has not extinguished their right to the deposit in accordance with sections 24(1) and 36(1) of the *Act*.

Although the Tenant's Direct Request Worksheet indicated the tenancy ended on March 16, 2020 and that the Tenant vacated the rental unit on March 17, 2020, I find that the fixed-term tenancy ended on March 31, 2020 as per the tenancy agreement.

In accordance with sections 88 and 90 of the *Act*, I find that the Landlord was deemed to have received the Tenant's forwarding address in writing on April 26, 2020, five days after it was mailed.

I accept the evidence before me that the Landlord has failed to return the security deposit to the Tenant and has not filed an Application for Dispute Resolution requesting to retain the security deposit by May 11, 2020, within the 15 days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that the Landlord must pay the Tenant double the amount of the security deposit in accordance sections 38(6) of the *Act*. Therefore, I find that the Tenant is entitled to a monetary award in the amount of \$1,700.00, the amount claimed by the Tenant for double the security deposit.

As the Tenant was successful in this application, I find that the Tenant is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the Tenant a monetary order in the amount of \$1,800.00 for the return of double the security deposit and for the recovery of the filing fee for this application. The Landlord must be served with this monetary order.

The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (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: December 30, 2020

Residential Tenancy Branch