



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 Tenants for a monetary order for the return of double the security deposit and/or pet damage deposit, and for the recovery of the filing fee paid to make the application.

The Tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that the Tenants served with Landlord with the Notice of Direct Request Proceeding and supporting documents by registered mail on December 17, 2020. The Tenants provided a copy of the Canada Post receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the Tenants and in accordance with sections 89 and 90 of the *Act*, I find that the Landlord is deemed to have received these documents on December 22, 2020, five days after they were mailed.

Issues to be Decided

1. Are the Tenants entitled to monetary compensation for the return of a security deposit and/or a pet damage deposit pursuant to sections 38 and 67 of the *Act*?
2. Are the Tenants 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 Tenants submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the Tenants on October 28, 2020, indicating a monthly rent of \$1,200.00, a security deposit of \$600.00, and a pet damage deposit of \$100.00, for a tenancy commencing on November 15, 2020;
- A copy of a hand-written receipt dated October 25, 2020 for the payment of a security deposit and a pet damage deposit totaling \$700.00;
- A copy of a signed Mutual Agreement to End a Tenancy effective at 5:00 p.m. on November 13, 2020 (the “Mutual Agreement”);
- A copy of a Tenant’s Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit dated November 13, 2020 (the “Notice of Forwarding Address”);
- 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 Notice of Forwarding Address was provided to the Landlord by leaving it in a mailbox or mail slot at the address where the Landlord resides or carries on business as Landlord on November 13, 2020, which service was witnessed by M.S.;
- A copy of a Tenant’s Direct Request Worksheet showing the amount of the security deposit (\$600.00) and pet damage deposit (\$100.00) paid by the Tenants.

Analysis

Section 38(1) of the *Act* states that the 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 them.

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 Tenants paid a security deposit in the amount of \$600.00 and a pet damage deposit in the amount of \$100.00, as per the tenancy agreement and the hand-written receipt referred to above.

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

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

I accept the Tenants' statement on the Tenant's Direct Request Worksheet that the tenancy ended on November 13, 2020, as indicated in the Mutual Agreement.

In accordance with sections 88 and 90 of the *Act*, I find that the Landlord was served with the Notice of Forwarding Address on November 13, 2020 when it was left in a mailbox or mail slot at the address where the Landlord resides or carries on business as Landlord. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. I find the Notice of Forwarding Address is deemed to have been received by the Landlord on November 16, 2020, three days after it was served.

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

Based on the foregoing, I find that the Landlord must pay the Tenants double the amount of the security deposit and the pet damage deposit in accordance sections 38(6) of the *Act*.

Therefore, as of the date of this application, January 7, 2021, I find that the Tenants are entitled to a monetary award in the amount of \$1,400.00, the amount claimed by the Tenants for double the security deposit and the pet damage deposit.

As the Tenants were successful in this application, I find that they are 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 Tenants a monetary order in the amount of \$1,500.00 for the return of double the security deposit and the pet damage deposit, and for the recovery of the filing fee for this application. 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: January 7, 2021

Residential Tenancy Branch