



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-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 double the security deposit and/or the pet damage deposit, and the recovery of the filing fee paid to make the application.

The Tenant submitted a signed Proof of Service - Tenant's Notice of Direct Request Proceeding which declares that on December 23, 2020, the Tenant served the Landlord with the Notice of Direct Request Proceeding and supporting documents by registered mail. The Tenant provided copies of Canada Post receipts 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 is deemed to have received the Direct Request Proceeding documents on December 28, 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/or 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 residential tenancy agreement which was signed by the Landlord and the Tenant on August 1, 2017, indicating a monthly rent of \$2,300.00, a security deposit of \$2,300.00, for a tenancy commencing on August 1, 2017;
- A copy of a Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit dated November 21, 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 (the "Proof of Service of Notice of Forwarding Address") which indicates that the Notice of Forwarding Address was sent to the Landlord by registered mail on November 24, 2020;
- Copies of Canada Post receipts containing the Tracking Number to confirm the Notice of Forwarding Address was sent to the Landlord by registered mail on November 24, 2020; and
- A copy of a Tenant's Direct Request Worksheet showing the amount of the security deposit paid by the Tenant and indicating the tenancy ended October 31, 2020.

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 the deposit(s) in full or make an application for dispute resolution claiming against the deposit(s).

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

I have reviewed all documentary evidence and I find that the Tenant paid a security deposit in the amount of \$2,300.00, as per the tenancy agreement.

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 deposits in accordance with sections 24(1) and 36(1) of the *Act*.

I accept the Tenant's statement on the Tenant's Direct Request Worksheet that the tenancy ended on October 31, 2020.

In accordance with sections 88 and 90 of the *Act*, I find that the Landlord is deemed to have received the Notice of Forwarding Address on November 29, 2020, five days after it was sent to the Landlord by registered mail.

I accept the evidence before me that the Landlord has failed to return the deposit(s) to the Tenant and has not filed an Application for Dispute Resolution requesting to retain the deposit(s) by December 14, 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 Tenant double the amount of the security deposit in accordance sections 38(6) of the *Act*.

Therefore, as of the date of this application, January 15, 2021, I find that the Tenant is entitled to a monetary award in the amount of \$4,600.00 (\$2,300.00 x 2), 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 also 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 \$4,700.00 for the return of double the security deposit and in recovery of the filing fee paid to make this application. The order must be served on the Landlord. The 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 15, 2021

Residential Tenancy Branch