



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RENTERS MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNSDS-DR, FFT

Introduction:

This matter was initiated as an ex parte Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act (Act)*. The Adjudicator considering the matter concluded that the order that the direct request proceeding should be reconvened in accordance with section 74 of the *Act*.

This participatory hearing was convened to consider the Tenant's application for a monetary Order for the return of the security deposit and/or pet damage deposit and the application to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that on December 16, 2020 the original Application for Dispute Resolution and evidence the Tenant submitted to the Residential Tenancy Branch were sent to the Landlord, via registered mail, at the service address noted on the Application. The Tenant submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, and the evidence was accepted as evidence for these proceedings.

The Tenant stated that notice of this reconvened hearing was sent to the Landlord, via registered mail, at the service address noted on the Application. The Tenant submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Act*. As notice of this hearing was properly served to the Landlord, the hearing proceeded in the absence of the Landlord.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that

they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Issue(s) to be Decided:

Is the Tenant entitled to the return of security deposit?

Background and Evidence:

The Tenant stated that:

- He entered into a written tenancy agreement with this Landlord;
- a security deposit of \$1,750.00 was paid;
- the tenancy began on August 01, 2020;
- he obtained the key for the unit on August 01, 2020;
- he did not move any property into the rental unit;
- on August 04, 2020 he informed the Landlord that he would not be proceeding with the tenancy, as his wife had been injured;
- on August 04, 2020 he returned the key to the rental unit;
- on August 20, 2020 he mailed his forwarding address to the Landlord;
- the Tenant did not authorize the Landlord to retain any portion of the security deposit;
- the Landlord did not return any portion of the security deposit; and
- the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

Analysis:

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit or file an Application for Dispute Resolution claiming against the deposits.

On the basis of the undisputed evidence I find that the Landlord failed to comply with section 38(1) of the *Act*, as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution and more than 15 days has passed since the tenancy ended and the Landlord received the Tenant's forwarding address, in writing.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection

38(1) of the *Act*, the landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit.

I find that the Tenant's Application for Dispute Resolution has merit and that the Tenant is entitled to recover the fee paid to file this Application.

Conclusion:

The Tenant has established a monetary claim of \$3,600.00, which includes double the security deposit of \$1,750.00 and \$100.00 in compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: April 14, 2021

Residential Tenancy Branch