



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 filed by the Tenants for a monetary order for the return of a security deposit and a pet damage deposit, and to recover the filing fee.

The Tenants submitted signed Proof of Service Tenant Notice of Direct Request Proceeding documents which declare that the Tenants served each Landlord with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on March 24, 2021. The Tenants provided copies of Canada Post receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the Tenants and in accordance with sections 89 and 90 of the *Act*, I find that the Landlords are deemed to have received these documents on March 29, 2021, 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 a pet damage deposit pursuant to sections 38 and 67 of the *Act*?
2. Are the Tenants entitled to recover the filing fee 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 Landlords on July 23, 2020 and by the Tenants on July 24, 2020, indicating a monthly rent of \$2,500.00, a security deposit of \$1,250.00 and a pet damage deposit of \$1,000.00, for a fixed-term tenancy commencing on September 1, 2020 and ending on August 31, 2021;
- A copy of a letter from the Tenants to the Landlords dated January 29, 2021 suggesting the tenancy was frustrated when they had to vacate the rental unit due to a fire caused by the “downstairs tenants” on November 26, 2020, which letter requested the return of deposits and provided a forwarding address in writing;
- A copy of a Proof of Service Tenant Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit dated January 30, 2021 confirming service of a forwarding address on the Landlords by registered mail on January 30, 2021, which was supported by Canada Post receipt which included the tracking number; and
- A copy of a Tenant’s Direct Worksheet dated March 16, 2021 confirming the amount of the security deposit and pet damage deposits paid and that the Tenants vacated the rental unit on November 26, 2021; and
- A copy of a screen print confirming an e-transfer in the amount of \$2,250.00 received by the Landlord T.K. on July 24, 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 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 Tenants paid a security deposit in the amount of \$1,250.00 and a pet damage deposit in the amount of \$1,000.00, as indicated in the tenancy agreement and e-transfer document submitted.

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

- The Tenants have not provided consent for the Landlords 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 when the Tenants vacated the rental unit on November 26, 2020.

In accordance with sections 88 and 90 of the *Act*, I find that the Landlords are deemed to have received the Tenants' forwarding address in writing on February 4, 2021, three days after it was sent to the Landlords by registered mail.

I accept the evidence before me that the Landlords have failed to return the security and pet damage deposits to the Tenants and have not filed an Application for Dispute Resolution requesting to retain the security and pet damage deposits by February 19, 2021, within the fifteen days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that the Landlords must pay the Tenants double the amount of the security and pet damage deposits in accordance sections 38(6) of the *Act*, which totals \$4,500.00 (\$2,250.00 x 2).

Having been successful I also find the Tenants are entitled to recover the \$100.00 filing fee paid to make the application.

Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the Tenants a monetary order in the amount of \$4,600.00 for the return of double the security and pet damage deposits and in recovery of the filing fee (\$4,500.00 + \$100.00). The order must be served on the Landlords. 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: April 12, 2021

Residential Tenancy Branch