



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 filed by the Tenant for a monetary order for the return of a security deposit and to recover the filing fee.

The Tenant submitted signed Proof of Service Tenant Notice of Direct Request Proceeding documents which declare that the Landlords were each served with the Notice of Dispute Resolution Proceeding and supporting documents by registered mail on March 30, 2021, which service was witnessed by G.M. The Tenant provided copies of Canada Post receipts containing the tracking numbers to confirm these mailings. Pursuant to sections 89 and 90 of the *Act*, I find that the Landlords are deemed to have received these documents on April 4, 2021, 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 pursuant to sections 38 and 67 of the *Act*?
2. Is the Tenant 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 Tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the Tenant on May 8, 2019 and by the Landlords on May 9, 2019, indicating a monthly rent of \$1,200.00 and a security deposit of \$600.00, for a tenancy commencing on May 1, 2019;
- A copy of a Notice to Move Out dated December 31, 2020, ending the tenancy on January 31, 2021, and providing a forwarding address in writing;
- A copy of a Proof of Service Tenant Notice of Forwarding Address for Return of Security and/or Pet Damage Deposit confirming service of a forwarding address by email on December 31, 2020;
- A copy of an email from the Landlord J.H. to the Tenant dated December 31, 2020 confirming receipt of the Notice to Move Out;
- A copy of a Tenant's Direct Request Worksheet dated March 25, 2021 confirming the amount of the security deposit paid and that the tenancy ended on January 31, 2021;
- A copy of an email exchange dated December 20, 2018 confirming a deposit was sent to and received by the Landlord J.H.;
- A copy of an email from the Landlord J.H. to the Tenant dated March 5, 2021 in which the Landlord J.H. states: "we would like to suggest that we return half the damage deposit to you (so \$300), and we would keep \$300 to help toward the cost of the repairs."

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 Tenant paid a security deposit in the amount of \$600.00 as indicated in the tenancy agreement and as confirmed in the email from the Landlord J.H. to the Tenant dated March 5, 2021.

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

- The Tenant has 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 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 January 31, 2021.

In accordance with sections 88 and 90 of the *Act*, I find that the Landlords received the Tenant's forwarding address in writing on December 31, 2021, as acknowledged in the email from the Landlord J.H. to the Tenant on the same date.

I accept the evidence before me that the Landlords have failed to return the security deposit to the Tenant and have not filed an Application for Dispute Resolution requesting to retain the security deposit by February 15, 2021, within the fifteen days granted under section 38(1) of the *Act*. Indeed, the email from the Landlord J.H. to the Tenant dated March 5, 2021 confirms that no part of the security deposit had yet been returned to the Tenant at that time.

Based on the foregoing, I find that the Landlords must pay the Tenant double the amount of the security deposit in accordance sections 38(6) of the *Act*, which totals \$1,200.00 (\$600.00 x 2).

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

Conclusion

Pursuant to sections 38, 67 and 72 of the *Act*, I grant the Tenant a monetary order in the amount of \$1,300.00 for the return of double the security deposit and in recovery of the filing fee (\$1,200.00 + \$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 21, 2021

Residential Tenancy Branch