Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFICA HOUSING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNSDB-DR MNDCT

Introduction

The tenant applied for the return of their security and pet damage deposit (the doubled portion only) pursuant to section 38 of the Act. In addition, by way of an amendment made on October 13, 2021, they sought compensation under section 67 of the Act.

Both parties, along with a witness for the tenant, and two employees of the corporate landlord, attended the hearing on October 28, 2021. No service issues were raised, and Rule 6.11 of the *Rules of Procedure,* under the Act, was explained.

Preliminary Issue: Amended Claim

The tenant's Application for Dispute Resolution was filed on April 28, 2021. On October 13, 2021, the tenant filed a *Tenant Request to Amend a Dispute Resolution Application* (the "Amendment"). In the Amendment, the tenant sought to add a claim for compensation the amount of $32,000.00. The claim for compensation was for, *inter alia,* the following (reproduced as written):

> [. . .] 32,000.00 for the 17 months pacifica housing illegally harassed, bullied, tormented, and threated us. On top of them illegally entering our unit [. . .] The CONSTANT Defamation of Character [. . .] The SIGNIFICANT & SERVE Mental, emotional, pychological and physical affect their choice behavior had on My Young Children & I, Loss of Education & Employment [. . .]

The written submission continues at some length after the above-noted excerpt. And the global amount of $32,000.00 is sought as compensation for alleged multiple breaches and negligence, tortious or otherwise. There are, however, and as explained to the parties during the hearing, serious issues with the Amendment.

First, when an applicant seeks compensation under the Act, Rule 2.5 of the *Rules of Procedure* requires that, to the extent possible, an applicant submit "a detailed calculation of any monetary claim being made." The purpose for this requirement, of course, is so that the respondent is given fair warning to what amounts, and for what reason, are being claimed. A simple sum of $32,000.00, without a detailed breakdown and explanation, is insufficient, and ultimately unfair to the respondent.

Second, a claim for compensation resulting from defamation, loss of education, loss of employment, lying, and false accusations, cannot be made under the Act. Any such claim is outside the jurisdiction of the Residential Tenancy Branch and would need to be pursued through other avenues.

Third, any claim for compensation based on mental, emotional, psychological, and physical harm allegedly caused by a respondent must be fully supported by medical documentation. There is no such evidence submitted in this case.

Given the above, the tenant's Amendment and claim for compensation in the amount of $32,000.00 is dismissed, with leave to reapply. While the tenant may file another Application for Dispute Resolution, she is strongly cautioned that any such application must conform to the requirements set out above.

Last, if any such claim is made, the tenant must make the application within the timeline set out in section 60(1) of the Act.

Issue

Is the tenant entitled to the return of their security and pet damage deposits (doubled portion only)?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure,* was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issue of this dispute, and to explain the decision, is reproduced below.

The tenancy began on July 1, 2019 and ended on December 31, 2020. Monthly rent was $1,570.00. The tenant paid a $750.00 security deposit and a $750.00 pet damage deposit. There is a copy of a written tenancy agreement in evidence.

The tenant testified that they provided their forwarding address, in writing, to the landlord's office on January 4, 2021. A representative for the landlord confirmed receipt of the tenant's forwarding address by way of email. This email was sent from the landlord to the tenant on the same date.

The landlord's representative (hereafter the "landlord") testified that they filed an Application for Dispute Resolution shortly after the tenancy ended. While the landlord could not recall when they filed the application, Residential Tenancy Branch file information indicates that the landlord filed on January 18, 2021. The landlord's application file number is referenced on the cover page of this decision.

A hearing for the landlord's application was held May 20, 2021 and a decision was issued June 3, 2021. The decision dismissed the application and ordered the return of the deposits. On June 10, 2021, the landlord returned the tenant's deposits.

Analysis

Section 38(1) of the Act states the following regarding what a landlord's obligations are at the end of the tenancy with respect to security and pet damage deposits:

> Except as provided in subsection (3) or (4) (a), within 15 days after the later of
>
> (a) the date the tenancy ends, and
> (b) the date the landlord receives the tenant's forwarding address in writing,
>
> the landlord must do one of the following:
>
> (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
>
> (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

In this dispute, the tenant provided her forwarding address to the landlord on January 4, 2021. The landlord acknowledged having received the tenant's forwarding address on that date.

The landlord then filed an application for dispute resolution claiming against the deposits on January 18, 2021. Thus, I find that the landlord made an application for dispute resolution 14 days after the date of receiving the tenant's forwarding address in writing, and thus within the 15 days as required under this section.

A doubling of the amount of a security or pet damage deposit may only be considered under section 38(6) of the Act when the following occurs:

> (6) If a landlord does not comply with subsection [38](1), the landlord
>
> (a) may not make a claim against the security deposit or any pet damage deposit, and
> (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

Because the landlord complied with section 38(1) of the Act by filing an application within the 15-day requirement, no additional compensation may be awarded under section 38(6). The tenant is not, I conclude, entitled to any additional, doubled amount of the deposits. Thus, the tenant's application for the return deposits' doubled portion is dismissed without leave to reapply.

Conclusion

The application is dismissed, without leave to reapply.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: October 28, 2021

Residential Tenancy Branch