



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement and to recover the filing fee from the landlord for the cost of the application.

The landlord and one of the tenants attended the hearing and the tenant also represented the other tenants. The parties each gave affirmed testimony and were given the opportunity to question each other.

The landlord has not provided any evidentiary material, but has received the evidence of the tenants. I have reviewed all of the tenant's evidence, which is considered in this Decision.

Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for recovery of the security deposit?

Background and Evidence

The tenant testified that the landlord was paid a security deposit in the amount of \$1,350.00 on March 24, 2021 for rental of a home. Rent in the amount of \$2,700.00 per month was verbally agreed, but the landlord then told the tenant that the tenants would have to pay extra for garbage pick-up and sewer and that the tenants could only stay for

1 year. As a result, the tenants did not sign the tenancy agreement and did not move into the rental unit.

The tenants provided the landlord with a forwarding address in writing on March 31, 2021. The parties emailed to each other and the landlord responded that he would return the security deposit but he never did. Copies of the emails have been provided for this hearing.

The tenants have also provided a copy of a document (RTB-47) entitled Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit which is signed by a tenant and dated March 31, 2021. It contains an address of the tenants as well as an email address.

The landlord testified that it was mentioned to the tenants that the contract would be for 1 year only, and due to COVID the landlord had to ensure they were the right tenants. Everything was okay, and the tenants needed to pay the security deposit to secure the rental unit.

The landlord made a copy of the contract but the tenants changed their mind but the landlord had already refused another tenant. When the tenant called the landlord, the landlord told the tenant that he would cross out any parts of the contract that the tenants didn't agree with.

The landlord further testified that if he pays a deposit for something and doesn't follow through, the deposit is forfeited, which is the case in this matter. The landlord has not applied for an order claiming against the security deposit.

Analysis

A security deposit is trust money, and the law takes a very serious view of trust monies. The *Residential Tenancy Act* does not permit a landlord to keep a security deposit unless the tenant agrees in writing. If a landlord wishes to keep a security deposit, the landlord must make a claim by filing and serving the tenants with an application within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. If the landlord fails to return the deposit or make an application claiming against it, the landlord must repay double the amount to the tenant.

There is no question in this case that the tenants did not sign a tenancy agreement and did not move into the rental unit. There is no question that the landlord has not returned any portion of the deposit and has not made an application claiming against it.

The tenants have provided proof of providing the landlord with a forwarding address in writing on March 31, 2021. The landlord did not dispute that. Since the landlord has not returned the deposit and has not made a claim against it, the landlord must repay double the amount to the tenants, or \$2,700.00.

Since the tenants have been successful with the application the tenants are also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the tenants in the amount of \$2,800.00 which may be filed for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,800.00.

This order is final and binding and may be enforced.

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: November 26, 2021

Residential Tenancy Branch