



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PLAN A REAL ESTATE SERVICES LTD. and [tenant name suppressed to protect privacy]

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

The Tenants submitted a signed Proof of Service Tenant Notice of Direct Request Proceeding which declares that the Tenants served the Landlord with the Notice of Dispute Resolution Proceeding and supporting documents by registered mail on October 21, 2021. The Tenants provided copies of Canada Post receipts containing the tracking number in support of service in this manner. Pursuant to sections 89 and 90 of the *Act*, I find that the Landlord is deemed to have received these documents on October 26, 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/or 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 parties on June 23, 2021, indicating a monthly rent of \$2,250.00, a security deposit of \$1,125.00 and a pet damage deposit of \$1,125.00, for a tenancy commencing on July 1, 2021;
- A copy of a funds transfer of \$2,250.00 with an expiry of July 24, 2021;
- A copy of an email from the Tenants to the Landlord dated September 25, 2021 requesting the return of the deposits and providing a forwarding address;
- A copy of an email from the Landlord to the Tenants dated September 28, 2021, in response to the Tenants' email of September 25, 2021;
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit confirming service of the Tenants' forwarding address by email on September 25, 2021; and
- A copy of a Tenant's Direct Request Worksheet dated October 18, 2021 confirming the amount of the security deposit (\$1,125.00) and pet damage deposit (\$1,125.00) paid, the amount returned to the Tenants (\$1,903.00), and that the tenancy ended on September 30, 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 of \$1,125.00 and a pet damage deposit of \$1,125.00 as indicated in the tenancy agreement and the Tenant's Direct Request Worksheet.

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

- The Tenant has not provided consent for the Landlord to keep all or part of the deposits;
- 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 Tenants' statement on the Tenant's Direct Request Worksheet that the tenancy ended on September 30, 2021.

In accordance with sections 88 and 90 of the *Act*, I find that the Landlord received the Tenants' forwarding address on September 28, 2021, as indicated on the Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit and supported by the email from the Landlord to the Tenants dated September 28, 2021.

I accept the evidence before me that the Landlord has failed to return the full amount of the deposits to the Tenants and has not filed an Application for Dispute Resolution requesting to retain them by October 15, 2021, within the fifteen days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that the Landlord must pay the Tenants double the amount of the deposits in accordance sections 38(6) of the *Act*.

Policy Guideline #17 provides examples to help determine how much a tenant is entitled to receive when deposits have been doubled. In this case, I find the following example is applicable:

Example A: A tenant paid \$400 as a security deposit. At the end of the tenancy, the landlord held back \$125 without the tenant's written permission and without an order from the Residential Tenancy Branch. The tenant applied for a monetary order and a hearing was held.

The arbitrator doubles the amount paid as a security deposit (\$400 x 2 = \$800), then deducts the amount already returned to the tenant, to determine the amount of the monetary order. In this example, the amount of the monetary order is \$525.00 (\$800 - \$275 = \$525).

[Reproduced as written.]

Based on the above example, I find the Tenants are entitled to a monetary award of \$2,597.00, which has been calculated as follows:

$$(\$1,125.00 + \$1,125.00) \times 2 = \$4,500.00$$

$$\$4,500.00 - \$1,903.00 = \$2,597.00$$

As the Tenants have been successful, I grant the Tenants \$100.00 in recovery of the filing fee paid to make the application.

Conclusion

Pursuant to sections 38, 67 and 72 of the *Act*, I grant the Tenants a monetary order of \$2,697.00 for the return of double the security and pet damage deposits and in recovery of the filing fee. The order must be served on the Landlord. 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: November 30, 2021

Residential Tenancy Branch