



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the landlord: MND-S, MNDC-S, FF
For the tenants: MNSD, FF

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act).

The landlords applied on July 14, 2021, for:

- compensation for alleged damage to the rental unit by the tenants;
- compensation for a monetary loss or other money owed;
- authority to apply the tenants' security deposit and pet damage deposit to any monetary award; and
- to recover the cost of the filing fee.

The tenants applied on July 30, 2021, for:

- a return of their security deposit and pet damage deposit; and
- to recover the cost of the filing fee.

The listed parties attended the telephone conference call hearing. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process.

At the outset of the hearing, each party confirmed that they had received the other party's application and evidence.

Thereafter the participants were provided the opportunity to present their evidence orally, refer to evidence submitted prior to the hearing, make submissions to me, and respond to the other's evidence.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and/or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

In a preliminary discussion, the landlord's agent GR ultimately confirmed that they had not provided a separate monetary order worksheet. Additionally, the landlord's agent BS mentioned a breakdown of the monetary claim that he had, but that total claim did not match the monetary claim listed in the landlords' application.

Thereafter, the landlords were advised that their application was being refused, pursuant to section 59(5)(c) of the Act because the landlords' application did not provide sufficient particulars of their claim for compensation, as is required by section 59(2)(b) of the Act. Additionally, Rule 2.5 states that the applicant must submit a detailed calculation of any monetary claim being made and copies of all other documentary and digital evidence to be relied on in the proceeding. The applicants are provided with instructions in the application package as to these evidence requirements.

The objective of the Rules is to ensure a fair, efficient, and consistent process for resolving disputes for landlords and tenants.

Specifically, the landlords failed to provide a breakdown of the amount claimed of \$7,600 at the time the landlords applied or at any time from the date of their application.

In response to my inquiry, the tenants and counsel agreed they did not know the particulars or value of the monetary claim of the landlords.

I find that proceeding with the landlords' claim at this hearing would be prejudicial and procedurally unfair to the tenants, as the absence of particulars that set out how the landlords arrived at the amounts being claimed makes it difficult, if not impossible, for the tenant to adequately prepare a response to the landlords' claim.

Both parties have the right to a fair hearing and the respondents are entitled to know the full particulars of the claim made against them at the time the applicant submits their application in order to prepare a response.

I therefore **dismiss** the landlords' application, **with leave to reapply**.

I do not grant the landlords the recovery of the cost of the filing fee as I have not considered the merits of their application.

Additionally, I found it necessary to amend the tenants' application to include the names listed on the landlords' application. The tenants applied against the company represented by landlord's agent, BS. During the hearing, BS said that they had released the tenants' security deposit and pet damage deposit to the owners of the residential property, who were the applicants in the landlords' application, seeking to keep the tenants' security deposit and pet damage deposit.

The hearing proceeded on the tenants' application.

Issue(s) to be Decided

Are the tenants entitled to a return of their security deposit and pet damage deposit and to recovery of the filing fee paid for this application?

Background and Evidence

The tenancy began on April 1, 2020, ended on or about June 30, 2021, for a monthly rent of \$4,200 and a security deposit and pet damage deposit of \$2,100 each being paid by the tenants to the landlords.

The tenant's monetary claim is in the amount of \$4,300, comprised of their security deposit of \$2,100, their pet damage deposit of \$2,100, and the filing fee of \$100.

The tenants submitted that they provided the landlords with their written forwarding address on July 7, 2021, in an email to the landlord's agent, BS. The landlords have not returned any portion of their security deposit and pet damage deposit, according to the tenants. The tenants submitted a copy of the email.

Landlords' response –

The landlord's agent BS confirmed receiving the tenants' forwarding address by email on that date or the day after.

Analysis

Under section 38(1) of the Act, within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy, a landlord must either return a tenant's security deposit and pet damage deposit or file an application for dispute resolution claiming against the deposits.

In the case before me, I find the evidence was that the tenancy ended on or about June 30, 2021, the last date the tenants lived in the rental unit, and that the tenants provided the landlord with their forwarding address on or about July 7, 2021, by email. The landlord's agent representing the landlords at the time confirmed receipt of the email with the tenant's forwarding address, on that date or the next day, July 8, 2021. I therefore find the landlords were sufficiently served with the tenants' written forwarding address by email.

Therefore, the landlords had until July 23, 2021, to file an application for dispute resolution claiming against the tenants' security deposit and pet damage deposit. I find the landlords complied with their obligation by filing their application on July 14, 2021.

As I have dismissed the landlords' application claiming against the tenants' security deposit and pet damage deposit, I order the landlords to return the tenants' security deposit of \$2,100 and the tenants pet damage deposit of \$2,100, immediately.

I also grant the tenants recovery of their filing fee of \$100, due to their successful application.

To give effect to this order, I grant the tenants a monetary order pursuant to section 67 of the Act for the amount of **\$4,300**.

Should the landlords fail to pay the tenants this amount without delay, the monetary order must be served upon the landlords for enforcement, and may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court.

The landlords are **cautioned** that costs of such enforcement are recoverable from the landlords.

Conclusion

The landlords' application is dismissed, with leave to reapply, due to insufficient particulars of their monetary claim.

The landlords are ordered to return the tenants' security deposit and pet damage deposit of \$2,100, each. The tenants are granted recovery of their filing fee of \$100.

The tenants are granted a monetary order in the amount of \$4,300 in the event the landlords do not comply with this order.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: January 31, 2022

Residential Tenancy Branch