



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Nova Relocation Inc
and [tenant name suppressed to protect privacy]
DECISION

Dispute Codes **MNSDS-DR, FFT**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement and a return of the security deposit pursuant to sections 38 and 67 of the *Act*;
- An order requiring the landlord to reimburse the tenant for the filing fee pursuant to section 72.

The tenant(s) ("the tenant") attended and was given a full opportunity to be heard, to present affirmed testimony, make submissions, and call witnesses. I explained the hearing process and provided the tenant with an opportunity to ask questions.

I explained to the tenant that no recording of the arbitration was permitted.

Direct Request Proceeding

This is a continuation of a Direct Request Proceeding on August 13, 2021. Pursuant to section 38.1 of the Residential Tenancy Act, the decision in this matter was made without a participatory hearing at that time. The decision was based on a tenant's Application for Dispute Resolution by Direct Request and the written submissions of the tenant.

The Adjudicator found that the landlord's address for service of documents by the tenant did not appear on the tenancy agreement. In the absence of evidence or documentation that the landlord resides or carries on business as a landlord at the

address listed on the tenant's Proof of Service Notice of Direct Request Proceeding, the Adjudicator was unable to determine that the landlord had been served as required. A participatory hearing was directed to address the issue.

The adjudicator ordered order that the direct request proceeding be reconvened in accordance with section 74 of the Act. Notices of Reconvened Hearing were provided to the tenant with the interim decision. The tenant was directed to serve the Notice of Reconvened Hearing, the interim decision, and all other required documents, upon the landlord within three (3) days of receiving this decision in accordance with section 89 of the Act.

Service of Documents

The tenant testified to compliance with the Adjudicator's Decision regarding service. The tenant provided affirmed testimony that they served the landlord with Direct Request Decision and all required documents including the Notice of Hearing and Application for Dispute Resolution by registered mail on July 28, 2021 to the landlord's business office.

The tenant testified that they met the RA (full name appearing on first page), the agent for the landlord, at the business office to which service was made. The meeting took place on February 13, 2021, and the parties signed the lease. The agent RA informed the tenant that the office was the business address for the landlord.

Throughout the tenancy, the tenant communicated with the agent RA, and later his replacement, at an email address to which they also sent all the above documents.

The tenant provided the Canada Post Tracking Number in support of service by registered mail as well as a copy of the mailing receipt.

Considering the tenant's testimony and supporting evidence, I find the tenant served the landlord as required by the Act with the above-mentioned documents

Background and Evidence

The tenant provided uncontradicted evidence as the landlord did not attend the hearing.

The tenant testified that the parties entered into a fixed term tenancy agreement on February 14, 2021 which ended on April 30, 2021; after agreement between the parties,

the tenant vacated on May 1, 2021. Rent was \$1,200.00 monthly payable on the first of the month. The tenant submitted a copy of the tenancy agreement. There are no arrears of rent.

At the beginning of the tenancy, the tenant provided a security deposit in the amount of \$600.00. The tenant did not provide authorization to the landlord to retain any of the security deposit.

The tenant testified that all communication for the final month of the tenancy with the landlord took place by text and by email. The tenant testified they sent their forwarding address by text and by email (June 7, 2021), copies of which were submitted.

The tenant testified that the parties did not carry out a condition inspection on moving in and moving out. The tenant testified they requested a condition inspection but the landlord declined.

The tenant stated that the landlord has not brought an application to keep any of the deposit.

The tenant requested a monetary award of double the deposit for the landlord's failure to return the deposit within 15 days of the provision of the forwarding address. The tenant requested reimbursement of the filing fee.

Analysis

Section 38 of the Act requires the landlord to either return the tenant's security deposit in full or file for dispute resolution for authorization to retain the deposit 15 days after the later of the end of a tenancy or upon receipt of the tenant's forwarding address in writing.

If that does not occur, the landlord must pay a monetary award, pursuant to section 38(6)(b) of the Act, equivalent to double the value the deposit. However, this provision does not apply if the landlord has obtained the tenant's written permission to keep all or a portion of the security deposit pursuant to section 38(4)(a).

I find that at no time has the landlord brought an application for dispute resolution claiming against the deposit for any damage to the rental unit pursuant to section 38(1)(d) of the Act. I find the tenant provided a deposit of \$600.00.

I accept the tenant's uncontradicted evidence they have not waived their right to obtain a payment pursuant to section 38 of the Act. I accept the tenant's credible testimony supported by documentary evidence and find the tenant served the landlord with the

forwarding address in a manner (text and email) which was the only method of communication between the parties.

Under these circumstances and in accordance with sections 38(6) and 72 of the Act, I find that the tenant is entitled to a monetary award of double the security deposit as well as reimbursement of the filing fee, for a total monetary order of **\$1,300.00**.

A summary of the calculation of the award follows:

ITEM	AMOUNT
Deposit	\$600.00
Doubling of security deposit - section 38(6)	\$600.00
Reimbursement of filing fee – section 72	\$100.00
Monetary Award	\$1,300.00

Conclusion

I grant the tenant a monetary order pursuant to section 38 in the amount of **\$1,300.00**.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Courts of the Province of British Columbia to be enforced as an order of that Court.

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: February 11, 2022

Residential Tenancy Branch