



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WALNUT MANOR APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSDS-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 a security deposit 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 January 27, 2022, which service was witnessed by L.G. Service in this manner was also supported by copies of Canada Post Canada Post registered mail receipts which confirmed the date and time of purchase and provided a tracking number. Pursuant to sections 89 and 90 of the Act, I find that the Landlord is deemed to have received these documents on February 1, 2022, 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 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 signed residential tenancy agreement indicating a monthly rent of \$3,200.00 and a security deposit of \$1,600.00, for a tenancy commencing on September 1, 2017;
- A copy of a letter to the Landlord dated December 10, 2021, requesting the return of the security deposit and providing a “General Delivery” address;
- A copy of a Proof of Service Tenant Notice of Forwarding Address for Return of Security and/or Pet Damage Deposit confirming service of the forwarding address letter on the Landlord by registered mail on December 13, 2021. Service in this manner was supported by Canada Post tracking information which confirms that the package was available for pick-up as of December 15, 2021, and that the package was received with a signature obtained; and
- A copy of a Tenant’s Direct Request Worksheet dated January 10, 2022, confirming the amount of the security deposit paid (\$1,600.00) and that the tenancy ended on November 30, 2021.

Analysis

Section 38(1) of the Act states that the landlord has fifteen days from the end of tenancy ends and the date they received a forwarding address in writing, whichever is later, 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 make a claim against them within fifteen days after receipt of the forwarding address, 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 in the amount of \$1,600.00 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 Tenants have not provided consent for the Landlord to keep all or part of the security deposit and pet damage deposit;
- There are no outstanding monetary orders against the Tenants for this tenancy; and
- The Tenants have 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 November 30, 2021.

In accordance with sections 88 and 90 of the Act, I find that the Landlord is deemed to have received the Tenants' forwarding address letter on December 18, 2021, five days after it was mailed.

I accept the evidence before me that the Landlord has failed to return the security deposit to the Tenants and has not filed an Application for Dispute Resolution requesting to retain the security deposit by January 2, 2022, 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 security deposit in accordance sections 38(6) of the Act, which totals \$3,200.00 (\$1,600.00 x 2).

Having been successful, I also find the Tenants are entitled to recover the \$100.00 filing fee paid to make the application.

Conclusion

Pursuant to sections 38 and 67 of the Act, I grant the Tenants a monetary order in the amount of \$3,300.00 for the return of double the security deposit 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: February 10, 2022

Residential Tenancy Branch