



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding QASSIM INVESTMENTS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking a monetary order for return of the security deposit or pet damage deposit and to recover the filing fee from the landlord for the cost of the application. The application was made by way of the Direct Request process which was referred to this participatory hearing, and an Interim Decision was provided to the tenants.

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

The landlord has not provided any evidentiary material, and the tenant indicated that all of the tenants' evidence has been provided to the landlord. The landlord did not dispute that, and all evidence of the tenants has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlord for all or part or double the amount of the security deposit?

Background and Evidence

The tenant (FH) testified that this fixed-term tenancy began on December 1, 2020 and was to revert to a month-to-month tenancy after November 30, 2021. However the tenants vacated the rental unit on May 2, 2021 with notice to the landlord. The landlord

agreed that if the tenants found suitable tenants to move in, the landlord would forgive the fixed term. The tenants found suitable tenants to occupy the rental unit.

Rent in the amount of \$1,750.00 was payable on the 1st day of each month and there are no rental arrears. On October 27, 2020 the landlord collected a security deposit from the tenants in the amount of \$875.00, and no pet damage deposit was collected. The rental unit is a condominium apartment, and the landlord did not reside on the rental property. A copy of the tenancy agreement has been provided for this hearing.

The tenant further testified that on May 31, 2021 the landlord sent an email to the tenants saying that there were deductions against the security deposit, and that the landlord would send an email transfer to the tenants in the amount of \$683.75. The tenant didn't accept the transfer or reply to the landlord's email because the tenants had not agreed to any deductions.

The landlord was provided with the tenant's forwarding address in a letter that was sent by Xpresspost on June 2, 2021. A copy of the letter had been provided for this hearing and it is dated June 1, 2021 and contains a request for return of the security deposit and a forwarding address. A copy of the Xpresspost tracking document has also been provided. The landlord received the letter on June 8, 2021.

During the tenancy the tenants had notified the landlord that a spark was coming off the gas stove. The landlord asked the tenants to get someone to inspect and the landlord would pay for it. A copy of the Invoice in the amount of \$78.75 has also been provided. The landlord has not repaid the tenants, and the tenants seek that amount from the landlord.

The landlord testified that he did not know that there was a moving fee charged by the property management company, and the landlord was charged \$100.00 for that.

The email dated May 31, 2021 that the landlord sent to the tenants advised them that the new tenant on his arrival said the apartment was a mess. The email explained that the landlord paid \$170.00 for cleaning, and made the following calculation: \$875.00 security deposit + \$78.75 for the stove inspection - \$100.00 move-in fee - \$170.00 cleaning fee = \$683.00. The landlord didn't hear from the tenants so on September 15, 2021 the landlord sent that sum to the tenants by e-transfer. The tenants didn't accept it and it was returned to the landlord on December 15, 2021.

The landlord further testified that he pays the property management company each 6 months for strata fees, utilities and other expenses. On December 1, 2020 he property

management company charged the landlord's account a move-in fee of \$100.00. The landlord doesn't get regular statements unless the landlord asks for them. On January 27, 2021 the landlord asked for a statement and discovered the \$100.00 move-in fee, which was unknown to the landlord.

The landlord agrees that if the tenants found a replacement tenant the landlord said that he wouldn't enforce the fixed term. A new tenant arrived and the landlord called him, who said the rental unit was in a mess.

The landlord only asks that the tenants pay what the landlord paid out of pocket. To say they didn't get the money is not correct.

The landlord did not have the tenants' consent to withhold any of the security deposit and the landlord has not served the tenants with an application for dispute resolution claiming a portion of the security deposit.

The landlord also testified that he doesn't know what the rules of the game are with respect to returning a security deposit and was quite angry that the apartment was not left clean.

Analysis

The *Residential Tenancy Act* states that a landlord has 15 days from the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to return a security deposit in full to a tenant, or must make an application for dispute resolution claiming all or a portion of the security deposit within that 15 day period. If the landlord fails to do either, the landlord must repay the tenant double the amount of the security deposit (or pet damage deposit).

In this case, the tenant testified that the landlord received the tenant's forwarding address in writing on June 8, 2021, and the landlord did not dispute that testimony. The landlord sent a portion of the security deposit to the tenants on September 15, 2021, well after the 15 day period, and the tenancy ended on May 2, 2021. The landlord did not have the tenants' consent to make any deductions from the security deposit, and the landlord did not return it within 15 days or even a portion within that 15 day period. Therefore, I find that the tenants have established a monetary claim for double the amount, or \$1,750.00.

The landlord agrees that the inspection for the stove was to be paid by the landlord, and I find that the landlord also owes \$78.75 to the tenants.

Since the tenants have been successful with the application, the tenants are also entitled to recovery of the \$100.00 filing fee.

I grant a monetary order in favour of the tenants as against the landlord in the amount of \$1,928.75 (\$1,750.00 double security deposit + \$78.75 stove inspection + \$100.00 filing fee = \$1,928.75). The landlord must be served with the order which may be filed in the Provincial Court of British Columbia, Small Claims division for enforcement.

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 \$1,928.75.

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 23, 2022

Residential Tenancy Branch