



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

Page: 1

DECISION

Dispute Codes MNRL-S MNDL-S

Introduction

The landlord sought compensation against their former tenants pursuant to sections 26 and 67 of the *Residential Tenancy Act* (the “Act”).

Preliminary Issue 1: Service of Notice of Dispute Resolution Proceeding

A dispute resolution hearing was held on February 23, 2023 at 1:30 PM. In attendance was one of the two respondent tenants. The landlord did not attend the hearing.

The tenant testified that he first became aware of this hearing when he received one of the Residential Tenancy Branch’s automated email reminders (which were, according to internal file notes, sent on February 9 and February 20, 2023). It therefore appears that the tenants were not served with the Notice of Dispute Resolution Proceeding as required by the Act and the Rules of Procedure.

The tenant further testified that the respondent co-tenant (C.K.) never resided at the property and that he ought not to have been listed on the tenancy agreement.

Last, the tenant testified that the landlord never returned the tenant’s security deposit of \$1,050.00 or the pet damage deposit of \$250.00. According to a written tenancy agreement that was on file the tenancy began on September 1, 2021. This is also the date on which the tenant or tenants paid the security and pet damage deposits.

Preliminary Issue 2: Non-Attendance of Applicant

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Because the applicant failed to attend the hearing, they have not proven their case. For this reason, the landlord's application is dismissed in its entirety without leave to reapply.

Further, given that the landlord has failed to establish any legal basis upon which he is, or was entitled to retain the security and pet damage deposits beyond the end of the tenancy, and taking into consideration the tenant's testimony regarding those deposits, I find and so order the landlord to return to the tenant the full amount of the security and pet damage deposits in the amount of \$1,303.82 (which includes \$3.82 in interest as per the *Residential Tenancy Regulation*, B.C. Reg. 477/2003, section 4).

The landlord must pay this amount to the tenant within 15 days of receiving a copy of this decision. A copy of a monetary order is issued in conjunction with this decision to the tenant. And the tenant must, should he intend to enforce this monetary award, serve a copy of the monetary order upon the landlord in any manner permitted under section 88 of the Act. The tenant may then enforce the monetary order in the Provincial Court of British Columbia (Small Claims).

Conclusion

The application is dismissed, without leave to reapply.

The tenant is granted a monetary order for \$1,303.82 and the landlord is ordered to pay this amount to the tenant within 15 days of receiving this decision.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: February 24, 2023

Residential Tenancy Branch