



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **MNSD, FFT**

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act ("Act") for orders as follows:

- For an order returning the security deposit and pet deposit pursuant to section 38 of the Act
- For reimbursement of the filing fee pursuant to section 72 of the Act

Landlord CK and tenant CT appeared. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the Act.

Issue(s) to be Decided

1. Is the tenant entitled to an order for return of the security deposit and pet deposit?
2. Is the tenant entitled to recover the filing fee for this application?

Background and Evidence

The tenancy commenced on April 1, 2017. Rent was \$965.00 per month due on the first of the month. The landlord took a security deposit of \$450.00 and a pet deposit of \$300.00 which he still holds. The tenancy ended on October 31, 2022.

The parties agree on the following facts:

- A move in condition inspection was completed with the parties but a report was not prepared upon the tenant taking possession of the rental unit
- A move out condition inspection was completed with the parties but a report was not prepared at the end of the tenancy
- The tenant provided the landlord with her forwarding address December 12, 2022
- The tenant did not agree in writing to allow the landlord to retain all or part of the security and pet deposits
- The landlord did not file an application for dispute resolution to claim part or all of the security and pet deposits

Analysis

While the parties attended both a move in and move out inspection, a report reflecting the condition of the rental unit was not prepared by the landlord and given to the tenant as required under sections 23 and 35 of the Act.

Section 38(1) of the Act requires the landlord to either return the security and pet deposits or file an application to retain them within 15 days of receiving the tenant's forwarding address. In this case the landlord did neither. Section 38(6) of the Act states that if the landlord does not comply with their obligations under section 38(1) of the Act, the landlord must return double the amount of the security and pet deposits.

As the tenant has satisfied her onus to establish that the security and pet deposits were not returned as required under the Act, the tenant's application is granted, and the tenant is entitled to the return of double the amount of the security and pet deposits.

As the tenant was successful in her application, she is also entitled to recover the \$100.00 filing fee for the application.

Conclusion

The tenant is granted a monetary order in the amount of \$1,600.00 for the security and pet deposits and the filing fee. The monetary order must be served on the landlord. The monetary 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: May 04, 2023

Residential Tenancy Branch