



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ACE AGENCIES
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 tenant 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 adjourned to this participatory hearing, and an Interim Decision dated October 5, 2022 was provided to the parties.

The tenant and an agent for the landlord attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other and to give submissions.

The parties agree that all evidence has been exchanged, all of which has been reviewed and the evidence I find relevant to the application is considered in this Decision.

Issue(s) to be Decided

Is the tenant entitled to recovery of all or part or double the amount of the security deposit?

Background and Evidence

The tenant testified that this month-to-month tenancy began on April 15, 1994 and ended on February 19, 2022. Rent in the amount of \$900.00 was payable under the tenancy agreement on the 1st day of each month, which has been increased over time to \$1,250.00 and there are no rental arrears. At the outset of the tenancy the landlord

collected a security deposit from the tenant in the amount of \$450.00, and some has been returned to the tenant, although the tenant is not certain of the amount. A copy of the tenancy agreement has been provided for this hearing.

The tenant testified that the landlord wanted the tenant to prove that a security deposit was paid, and the tenant provided a copy of the original tenancy agreement, which contained a security deposit.

The tenant also provided the landlord with a forwarding address in a letter dated June 21, 2022. A Proof of Service Tenant Forwarding Address for the Return of the Security and/or Pet Damage Deposit form has been provided as evidence, but it does not indicate the date that it was served. It is accompanied by a Canada Post Registered Domestic Customer Receipt containing a tracking number and date stamped June 21, 2022 by Canada Post.

The tenancy ended as a result of the landlord serving a Four Month Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of a Rental Unit, a copy of which has been provided for this hearing, which indicated that the landlord intended to demolish the rental unit. The Notice is dated September 27, 2021 and contains an effective date of vacancy of January 31, 2022.

The landlord's agent testified that the Four Month Notice was served to the tenant, but the tenants couldn't find a place to live. The tenant got 2 months free rent, then couldn't find movers so the landlord paid for the movers. The tenant agreed to that, then months later wanted the security deposit back, but at that time the landlord did not have a forwarding address, which was ultimately received on July 7, 2022. The landlord returned \$546.98 to the tenant on July 14, 2022 which included interest calculated on the Residential Tenancy Branch website.

The landlord did not get the tenant's consent in writing to keep any portion of the security deposit. However, 10 days after the tenant moved out, homeless people moved in and burned the house down as well as a neighbour's house, which delayed the process.

Analysis

A landlord must return a security deposit and/or pet damage deposit to a tenant in full within 15 days of the later of the date the tenancy ends or the date the landlord receives

the tenant's forwarding address in writing, or must make an application for dispute resolution claiming against the deposit(s) within that 15 day period. If the landlord fails to do either, the landlord must repay the tenant double the amount, unless the landlord has written consent from the tenant to keep it or a portion of it.

In this case, the tenancy ended on February 19, 2022 and the landlord's agent testified that the landlord received the tenant's forwarding address in writing on July 7, 2022. On July 14, 2022 the landlord returned \$546.98 which included interest.

The tenant's letter containing the forwarding address is dated June 21, 2022. The Tenant's Proof of Service Tenant Forwarding Address for the Return of the Security and/or Pet Damage Deposit does not indicate when the forwarding address was served, however the tenant has provided a copy of a Canada Post Registered Domestic Customer Receipt indicating that registered mail was sent to the landlord on June 21, 2022. I find that the registered mail contained the June 21, 2022 letter that contained the tenant's forwarding address, which is deemed to have been served 5 days later, or June 26, 2022. The landlord then had 15 days to return it, or by July 11, 2022. The landlord returned it on July 14, 2022 with interest, which is not within 15 days.

A landlord is required to provide a tenant with the equivalent of 1 month's rent as compensation for ending a tenancy with a Four Month Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of a Rental Unit. In this case, I accept the undisputed testimony of the landlord's agent that the tenant received 2 month's free rent and the landlord paid for the moving truck, which I find was to facilitate the landlord in obtaining vacant possession of the rental unit, and was very generous. However, the landlord did not receive the tenant's written consent to keep any part of the security deposit.

In the circumstances, I find that the landlord has not complied with the *Act* by returning the security deposit to the tenant within 15 days after receiving the tenant's forwarding address. Therefore, I find that the landlord must repay double the amount, or \$450.00. Interest is not doubled under the law.

Since the tenant has been successful with the application the tenant is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the tenant as against the landlord in the amount of \$550.00. The landlord must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$550.00.

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: June 27, 2023

Residential Tenancy Branch