



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FFT

Introduction

The tenants applied to the Residential Tenancy Branch [the 'RTB'] for Dispute Resolution. The tenants ask me for the following orders against the landlords.

1. Return of \$2,300.00 of deposits [the 'Deposits'].
2. Reimbursement for the \$100.00 filing fee for this application.

The tenants appeared at the hearing on 23 June 2023. The corporate landlords also appeared, by way of agent.

Issues to be Decided

Must the landlords return the Deposit to the tenants?

Should the landlords reimburse the tenants for the cost of filing their application?

Background and Evidence

The parties told me the following about this tenancy:

1. it began 1 March 2023, and ended eight days later;
2. the tenants paid \$2,300.00 as Deposits to the landlords; and
3. the parties participated in both move-in and move-out inspections.

The parties told me a lot about why the tenancy ended early, and about the condition of the rental unit.

When the tenants moved out, they did not provide a forwarding address to the landlords, because of concerns for their safety.

The tenants told me that they never received copies of the inspection reports from the landlords. The landlords told me that they put a copy of the move-in inspection report in the mailbox of the tenants; and that they could not provide a copy of the move-out inspection report, as they had no forwarding address for the tenants.

The landlords also told me that it took them a month to find a new tenant to occupy the unit after these tenants left the unit early.

The landlords confirmed that they never filed an application with the RTB to keep the Deposits.

Analysis

I have considered all the statements made by the parties and the documents to which they referred me during this hearing. And I have considered all the arguments made by the parties.

In analysing this dispute, I consider Residential Tenancy Policy Guideline 17: 'Security Deposit and Set off'. This guideline reads, in part:

The arbitrator will order the return of a security deposit... on... a tenant's application for the return of the deposit... unless the tenant's right to the return of the deposit has been extinguished under the Act.

And the guideline cites sections 24(1), 36(1), and 38(2) as the portions of the *Residential Tenancy Act* [the 'Act'] that might extinguish a tenant's right to the return of a deposit. Those sections extinguish this right if a tenant did not participate in a move-in inspection or a move-out inspection.

So, has the tenants' right to the return of the Deposits been extinguished under these sections? No: parties agree that the tenants participated in both the move-in and move-out inspections.

The landlords argue that the tenants' right to the return of the Deposits should be extinguished because they ended the tenancy early. But the landlords could not cite any

section of the Act to support that argument. And without an application from the landlords to retain the Deposits, I see no basis for this argument.

The guideline goes on to read:

Unless the tenant has specifically waived the doubling of the deposit... the arbitrator will order the return of double the deposit... if the landlord has not filed a claim against the deposit within 15 days of the later of the end of the tenancy or the date the tenant's forwarding address is received in writing.

I have no record of the landlords filing any claim against the Deposits. But the tenants told me that they did not provide a forwarding address to the landlords. And so I do not find that the landlords are subject to a doubling of the Deposits.

Yet the landlords argue that the tenants should not receive their Deposits because they failed to provide a forwarding address. But I note that the tenants have a year from the end of the tenancy within which to provide such an address, *per* section 39 of the Act. Accordingly, the tenants have until 9 March 2024 to provide the landlords with a forwarding address.

As a result, I find that the landlords owe the tenants:

1. the Deposits; plus
2. \$18.80 in interest on the Deposits, from 1 March 2023 to today's date.

As the tenants have succeeded in their application, I also order that the landlords reimburse them for the \$100.00-cost of filing this application.

I note that, assuming the tenants provide a forwarding address to the landlords before 9 March 2024, if the landlords do not then repay the Deposits within 15 days of receiving that address, then they will be liable to the tenants for double the value of the Deposits, *i.e.* a total of \$4,600.00.

Conclusion

I order that the landlords pay to the tenants \$2,418.80 *per* section 38 (1) of the Act.

The tenants must serve this order on the landlords as soon as possible. If the landlords do not comply with my order, then the tenants may file this order in the Small Claims

Division of the Provincial Court of British Columbia. Then the tenants can enforce my order as an order of that court.

I make this decision on authority delegated to me by the Director of the RTB *per* section 9.1(1) of the Act.

Dated: 31 July 2023

Residential Tenancy Branch