



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

This hearing was scheduled to convene at 1:30 p.m. on March 1, 2024 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.

One of the named tenants attended the hearing and represented the other named tenants. The tenant was accompanied by an interpreter who was affirmed to well and truly interpret the hearing from the English language to the tenant's Native language and from the tenant's Native language to the English language to the best of the interpreter's skill and ability. The landlord gave affirmed testimony, and provided evidentiary material in advance of the hearing.

However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call. The tenant testified that the landlord was served with the Notice of Dispute Resolution Proceeding and other documents by registered mail on November 24, 2023 and has provided a Proof of Service document indicating that as well as a tracking number. I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?

Background and Evidence

The tenant testified that this tenancy began on February 18, 2023 and the tenant vacated the rental unit on July 30, 2023. There is no written tenancy agreement, however rent in the amount of \$1,850.00 was payable on the 1st day of each month, and there are no rental arrears. Prior to moving in, the tenants paid the landlord a security deposit in the amount of \$1,000.00, and no pet damage deposit was paid. The rental unit is a basement suite, and the landlord resided in the upper level of the home during the tenancy.

No move-in or move-out condition inspection reports were completed, however when the tenant moved out, the landlord walked through the rental unit without the tenant present, and told the tenant he was not going to return the security deposit. Since this application was made, the landlord offered to give the tenants \$600.00, but has not paid any amount to the tenants.

The tenant served the landlord with a Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit - #RTB-47 by registered mail on November 24, 2023. A copy has been provided for this hearing, and it is addressed to the landlord and contains a legible forwarding address of the tenants, signed on November 22, 2023. The tenants have also provided a Canada Post Registered Domestic Customer Receipt containing a tracking number. A Proof of Service document has also been provided stating that the registered mail was sent on November 24, 2023. The tenant served the landlord with the Notice of Dispute Resolution Proceeding and forwarding address all in 1 envelope.

The tenants have also provided a Direct Request Worksheet setting out the amount of the security deposit paid to the landlord, with none returned to the tenants and stating that the tenants have not agreed that the landlord keep any portion of the security deposit.

Analysis

Firstly, a landlord may not collect more than half a month's rent as a security deposit. In this case, I accept the undisputed testimony of the tenant that the rental amount was \$1,800.00 and the landlord collected a security deposit in the amount of \$1,000.00 prior to the commencement of the tenancy.

The *Residential Tenancy Act* places the onus on the landlord to ensure that move-in and move-out condition inspection reports are completed in accordance with the

regulations and that copies be provided to the tenant. If the landlord fails to do so, the landlord's right to claim against the security deposit for damages is extinguished. I accept the undisputed testimony of the tenant that neither of the reports were completed or copies given to the tenant. Therefore, I find that the landlord's right to claim against the security deposit for damages is extinguished.

The law also requires a landlord to return a security deposit to a tenant 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 security deposit within that 15 day period. If the landlord fails to do either, the landlord must repay double the amount to the tenant.

The tenants have provided proof that the landlord was provided with the tenants' forwarding address in writing by registered mail on November 24, 2023, which is deemed to have been served 5 days later, or November 29, 2023. The landlord then had 15 days to apply to keep the security deposit or return it to the tenants, or by December 14, 2023. Today is March 1, 2024, well after the 15 days provided by the law. I accept the undisputed testimony of the tenant that the landlord has not returned any portion of the security deposit, and I have no application by the landlord claiming against it. Given that the landlord has had 3 months to return the security deposit, and having found that the landlord was served on November 29, 2023, I order that the landlord pay double the amount of the security deposit to the tenants, or \$2,000.00.

Since the tenants have been successful with the application the tenants are also entitled to recover the \$100.00 filing fee from the landlord.

I grant a monetary order in favour of the tenants as against the landlord in the amount of \$2,100.00. 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 tenants as against the landlord pursuant to Section 67 of the Residential Tenancy Act in the amount of \$2,100.00.

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: March 01, 2024

Residential Tenancy Branch