



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lincoln Manor Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNSD; MNDC; FF

Introduction

This is the Tenant's Application for Dispute Resolution seeking return of the security deposit; compensation for damage or loss under the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony at the Hearing.

It was determined that the Landlord was served with the Tenant's Notice of Hearing and documentary evidence, by registered mail sent on March 24, 2015. It was also determined that the Tenant was served with the Landlord's documentary evidence, by registered mail sent on April 27, 2015.

Issue to be Decided

Is the Tenant entitled to a monetary award pursuant to the provisions of Section 38 of the Act?

Background and Evidence

The tenancy began on October 1, 2011 and ended on February 28, 2015. Monthly rent was \$600.00, due on the 1st day of every month. The Tenant paid a security deposit in the amount of \$300.00 at the beginning of the tenancy.

The Tenant testified that he gave the Landlord his forwarding address in writing on January 27, 2015, when he provided his notice to end the tenancy. The Landlord's agent acknowledged receipt of the Tenant's forwarding address on January 27, 2015.

The Tenant testified that the Landlord did not make arrangements for a move-out Condition Inspection at the end of the tenancy.

The Landlord stated that the Tenant gave his oral permission to keep the security deposit for unpaid utilities, cleaning charges and damages to the rental unit. He stated that the Tenant did not attend at the move-out condition inspection, so he completed the Condition Inspection Report on his own.

The Tenant denied that he gave the Landlord permission to retain any of his security deposit at the end of the tenancy.

Analysis

The Landlord provided oral testimony and documentary evidence that the Tenant owed the Landlord \$838.35 for unpaid utilities and damages. However, the Landlord has not filed its own Application for Dispute Resolution for a monetary award. I explained to the parties that the Landlord is at liberty to file an Application under Section 67 of the Act.

A security deposit is held in a form of trust by a landlord for a tenant, to be applied in accordance with the provisions of the Act. A landlord may not arbitrarily decide whether or not to keep the security deposit.

Section 38(1) of the Act provides that (unless a landlord has the tenant's written consent to retain a portion of the security deposit) at the end of the tenancy and after receipt of a tenant's forwarding address in writing, a landlord has 15 days to either:

1. repay the security deposit in full, together with any accrued interest; or
2. make an application for dispute resolution claiming against the security deposit.

Section 38(6) of the Act provides that if a landlord does not comply with Section 38(1) of the Act, the landlord **must** pay the tenant double the amount of the security deposit.

Therefore, I find that the Tenant is entitled to a monetary order for double the amount of the security deposit, in the amount of **\$600.00**.

The Tenant's Application had merit and therefore I find that he is entitled to recover the **\$50.00** filing fee from the Landlord.

Conclusion

I hereby grant the Tenant a Monetary Order in the amount of **\$650.00** for service upon the Landlord. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

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: September 14, 2015

Residential Tenancy Branch

