



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on February 4, 2016 (the "Application").

The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"): a monetary order for the return of all or part of the security deposit or pet damage deposit; and a monetary order for recovery of the filing fee.

The Tenant attended the hearing on his own behalf and provided his solemn affirmation. The Landlord did not attend the hearing.

The Tenant testified that the Notice of a Dispute Resolution Hearing, dated February 4, 2016, and his supporting evidence, was served on the Landlord by registered mail on February 9, 2016. The Tenant submitted Canada Post registered mail receipts and tracking information in support. Pursuant to section 90 of the *Act*, documents served by registered mail are deemed to be received five days later. Accordingly, I find the Notice of a Dispute Resolution Hearing and supporting evidence were deemed to be received on February 14, 2016.

The Tenant was given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Tenant entitled to a monetary order for return of all or part of the security deposit or pet damage deposit?
2. Is the Tenant entitled to a monetary order for recovery of the filing fee?

Background and Evidence

A copy of the written tenancy agreement between the parties was submitted with the Tenant's documentary evidence. It confirms a fixed-term tenancy from November 1, 2016 to April 31, 2015. The Tenant advised he vacated the rental unit at the end of the fixed term. Rent in the amount of \$3,300.00 per month was due on the first day of each month. As evidenced by a cheque dated October 21, 2016, submitted with the Tenant's documentary evidence, the Tenant paid a security deposit of \$3,000.00.

Also provided with the Tenant's documentary evidence was a copy of a letter dated May 23, 2015. The letter is addressed to the Landlord's address for service as provided in the written tenancy agreement. In the letter, the Tenant provided a forwarding address and requested return of the security deposit.

The Tenant provided oral testimony confirming the Landlord has not returned the security deposit.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find the following:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after the latter of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing.

Further, section 38(6) of the *Act* stipulates that, if a landlord does not comply with section 38(1), the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit.

In this case, the Tenant's unchallenged evidence is that he provided his forwarding address in writing by letter dated May 23, 2015. Pursuant to section 90 of the *Act*, documents served in this manner are deemed to be received five days later. I find the

letter is deemed to have been received on May 28, 2015. Accordingly, the Landlord had until June 12, 2015, to return the security deposit to the Tenant or file an application for dispute resolution. The Landlord did neither.

Pursuant to section 38(1) and (6) of the *Act*, I find the Tenant is entitled to an award of \$6,000.00, which is double the amount of the security deposit.

In addition, having been successful, I find the Tenant is entitled to recover the \$100.00 filing fee.

Pursuant to section 67 of the *Act*, I grant the Tenant a monetary order in the amount of \$6,100.00, which is comprised of payment of double the security deposit (\$6,000.00) and recovery of the filing fee (\$100.00).

Conclusion

The Tenant is granted a monetary order in the amount of \$6,100.00. This 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: September 21, 2016

Residential Tenancy Branch

