



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 in response to an application by the tenant for a Monetary Order for the return of the pet damage deposit and compensation under Section 38 of the Act for double the deposit amount. The application is inclusive of an application for recovery of the filing fee for this application.

Both tenants and the landlord and their agent were represented at today's hearing. The parties acknowledged the exchange of evidence. The parties were provided opportunity to present any relevant evidence in testimony. The parties were also provided opportunity to discuss their dispute with a view to settling all matters to no avail. The hearing proceeded on the merits of the tenant's application.

Issue(s) to be Decided

Is the tenant entitled to double the monetary amounts claimed?

Background and Evidence

The undisputed relevant facts of the parties before me are as follows.

The tenancy began May 01, 2015 and since ended. Rent was \$1330.00 payable in advance on the 1st. of every month. The landlord collected a security deposit and a pet damage deposit of \$675.00 respectively at the outset of the tenancy, of which the landlord returned the security deposit of \$675.00 and retains an equal amount for the pet damage deposit in trust. At the outset of the tenancy the landlord did not conduct a

mutual move in inspection in accordance with the Act. The tenancy ended May 31, 2016. The landlord did not conduct a mutual move out inspection at the end of the tenancy as required by the Act. The parties agree the landlord received a letter from the tenant dated April 30, 2016 providing the landlord the tenant's notice to vacate and their forwarding address. The landlord testified that on May 31, 2016, they were in possession of the tenant's forwarding address in writing. The parties did not agree as to the administration of the deposits at the end of the tenancy. The tenant requested return of their deposits, and the landlord determined to return the security deposit and retain the pet damage deposit for purported pet damage to the carpeting.

Analysis

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

On preponderance of the relevant evidence for this matter, I find as follows.

Section 38(1) of the Act provides as follows (**emphasis mine**)

38(1) Except as provided in subsection (3) or (4) (a), **within 15 days after the later of**

38(1)(a) the date the tenancy ends, and

38(1)(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord **must** do **one of the following**:

38(1)(c) repay, as provided in subsection (8), **any security deposit or pet damage deposit** to the tenant with interest calculated in accordance with the regulations;

38(1)(d) **file an application** for dispute resolution to make a claim against the security deposit or pet damage deposit.

I find that the landlord failed to repay the security deposit, or to make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing on May 31, 2016 and is therefore liable under Section 38(6) which provides:

38(6) If a landlord does not comply with subsection (1), the landlord

38(6)(a) may not make a claim against the security deposit or any pet damage deposit, and

38(6)(b) **must pay the tenant double the amount of the security deposit**, pet damage deposit, or both, as applicable.

The landlord currently holds a pet damage deposit of \$675.00 and was obligated under Section 38 to return this amount. The amount which is *doubled* is the original amount of the deposit. As a result I find the tenant has established an entitlement claim for \$1350.00 and is further entitled to recovery of the 100.00 filing fee for a total entitlement of **\$1450.00**.

Conclusion

I grant the tenant a Monetary Order under Section 67 of the Act for the sum of **\$1450.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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: December 19, 2016

Residential Tenancy Branch