



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAKHT HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for the return of double their security and pet damage deposits, plus recovery of their \$100.00 Application filing fee for a total monetary claim of \$2,300.00.

The Tenant and an agent for the Landlord (the "Agent") appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Issue(s) to be Decided

- Are the Tenants entitled to a monetary order, and if so, in what amount?
- Are the Tenants entitled to recovery of the \$100.00 Application filing fee?

Background and Evidence

The Parties agreed that the fixed term tenancy began on November 1, 2018, running until May 31, 2019, and then becoming a periodic tenancy. The Parties agreed that the monthly rent was \$1,100.00, due on the first day of each month. The Parties agreed that the Tenants paid the Landlord a security deposit of \$550.00, and a pet damage deposit of \$550.00. The Parties agreed that the tenancy ended when the Tenants gave the Landlord notice that they intended to move out on May 31, 2019.

The Parties agreed that the Tenants and a previous owner did a condition inspection report ("CIR") at the start of the tenancy, and that a representative of the Landlord completed a CIR with the Tenants at the end on May 31, 2019. The Parties agreed having signed that they had completed the CIR. However, they also agreed that the Landlord added comments to the end of the CIR afterwards about items he later noted to be damaged or missing, such as a damaged blind, a missing key, hydro owing and two missing bulbs. The Agent agreed that he added these items after the CIR was signed by the Parties on May 31, 2019, and that the Tenants did not have an opportunity to review these matters at the end of the tenancy.

The Tenants said that they gave the Landlord their forwarding address in writing by registered mail on June 17, 2019. The Landlord acknowledged that he received it on June 18, 2019, which is consistent with the proof of delivery the Tenants submitted into evidence.

Analysis

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

I find that the Tenants provided their forwarding address to the Landlord on June 18, 2019, and that the tenancy ended on May 31, 2019.

Section 38(1) of the Act states the following about the connection of these dates to a

landlord's requirements surrounding the return of the security and pet damage deposits:

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

(a) the date the tenancy ends, and

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

the landlord must do one of the following:

(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;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

I find that the Landlord was required to return the \$1,100.00 security and pet damage deposits within fifteen days of June 18, 2019, namely by July 2, 2019, or to apply for RTB dispute resolution to claim against the deposits, pursuant to Section 38(1). The Landlord provided no evidence that they returned any amount of the security or pet damage deposits or applied to the RTB for dispute resolution, claiming against the security and pet damage deposits. Therefore, I find the Landlord failed to comply with their obligations under Section 38(1).

Section 38(6)(b) states that if a landlord does not comply with section 38(1) that the landlord must pay the tenant double the amount of the deposits. There is no interest payable on the deposits.

I, therefore, award the Tenants \$2,200.00 from the Landlord in recovery of double the security and pet damage deposits. Given that the Tenants were successful in their claim, I also award them recovery of the \$100.00 Application filing fee for a total award of \$2,300.00.

Conclusion

The Tenants' claim against the Landlord for return of double the security and pet damage deposits is successful in the amount of \$2,200.00. The Landlord breached section 38(1) of the Act by not returning the Tenants' security and pet damage deposits or applying for dispute resolution on time. One of these two actions had to be done

within 15 days of the later of the end of the tenancy and the Landlord receiving the Tenants' forwarding address. I award the Tenants with double the amount of the \$550.00 security deposit and double the amount of the \$550.00 pet damage deposit, plus recovery of the \$100.00 Application filing fee, pursuant to sections 38 of the Act for a total award of \$2,300.00

I grant the Tenants a monetary order under section 67 of the Act from the Landlord in the amount of **\$2,300.00**.

This Order must be served on the Landlord by the Tenants as soon as possible and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: October 23, 2019

Residential Tenancy Branch