



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act* (the “*Act*”) and dealt with an Application for Dispute Resolution by the Tenant for a monetary order for the return of a security deposit and to recover the filing fee.

The Tenant submitted a signed Proof of Service Tenant Notice of Direct Request Proceeding which declares that the Landlord was served with the Notice of Dispute Resolution Proceeding and supporting documents by registered mail on September 9, 2021. In support of service in this manner, the Tenant provided copies of a Canada Post receipt which included the tracking number. Pursuant to sections 89 and 90 of the *Act*, I find that the Landlord is deemed to have received these documents on September 14, 2021, five days after they were mailed.

Issues to be Decided

1. Is the Tenant entitled to monetary compensation for the return of a security deposit pursuant to sections 38 and 67 of the *Act*?
2. Is the Tenant entitled to recover the filing fee pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Tenant submitted the following relevant evidentiary material:

- A copy of a signed residential tenancy agreement indicating a monthly rent of \$1,050.00 and a security deposit of \$525.00, for a tenancy commencing on March 1, 2016;
- A copy of a receipt dated February 27, 2016 confirming payment of a security deposit in the amount of \$525.00;
- A copy of a type-written letter to the Landlord dated June 22, 2021 giving written notice to end the tenancy on July 31, 2021, providing a forwarding address in writing, and requesting the return of the security deposit;
- A copy of a Proof of Service Tenant Notice of Forwarding Address for Return of Security and/or Pet Damage Deposit confirming service of the Tenant's forwarding address in writing by registered mail on June 24, 2021;
- A copy of a Canada Post registered mail receipt which included the tracking number dated June 24, 2021;
- A copy of a Tenant's Direct Request Worksheet dated August 17, 2021 confirming the amount of the security deposit paid (\$525.00), the amount of the security deposit returned to the Tenant (\$475.00), and that the tenancy ended on July 31, 2021; and
- A copy of a screen print confirming an e-transfer from the Landlord in the amount of \$475.00 with an expiry date of September 8, 2021.

Analysis

Section 38(1) of the *Act* states that the landlord has fifteen days from the end of tenancy and the date they received the forwarding address to either return the deposits in full or make an application for dispute resolution claiming against the deposits.

Section 38(6) of the *Act* states that if the landlord does not return the deposits or file a claim against them within the fifteen days, the landlord must pay the tenant double the amount of the deposits.

I have reviewed all documentary evidence and I find that the Tenant paid a security deposit in the amount of \$525.00 as indicated in the tenancy agreement and that \$475.00 has been returned to the Tenant.

I accept the following declarations made by the Tenant on the Tenant's Direct Request Worksheet:

- The Tenant has not provided consent for the Landlord to keep all or part of the security deposit and pet damage deposit;
- There are no outstanding monetary orders against the Tenant for this tenancy; and
- The Tenant has not extinguished their right to the deposits in accordance with sections 24(1) and 36(1) of the *Act*.

I accept the Tenant's statement on the Tenant's Direct Request Worksheet that the tenancy ended on July 31, 2021.

In accordance with sections 88 and 90 of the *Act*, I find that the Landlord is deemed to have received the Tenant's forwarding address in writing on June 29, 2021, five days after it was sent by registered mail.

I accept the evidence before me that the Landlord has failed to return the security deposit to the Tenant in full and did not file an Application for Dispute Resolution requesting to retain the security deposit by August 15, 2021, within the fifteen days after that date the tenancy ended under section 38(1) of the *Act*.

Based on the foregoing, I find that the Landlord must pay the Tenant double the amount of the security deposit in accordance sections 38(6) of the *Act*.

Policy Guideline #17 provides examples to assist when calculating the amount due. In this case, I find that Example A is most like the current circumstances. It states:

Example A: A tenant paid \$400 as a security deposit. At the end of the tenancy, the landlord held back \$125 without the tenant's written permission and without an order from the Residential Tenancy Branch. The tenant applied for a monetary order and a hearing was held.

The arbitrator doubles the amount paid as a security deposit (\$400 x 2 = \$800), then deducts the amount already returned to the tenant, to determine the amount of the monetary order. In this example, the amount of the monetary order is \$525.00 (\$800 - \$275 = \$525).

[Reproduced as written.]

Following the calculation in Example A, I find the Tenant is entitled to a monetary award in the amount of \$575.00, which has been calculated as follows:

$$\mathbf{\$525.00 \times 2 = \$1,050.00}$$

$$\mathbf{\$1,050.00 - \$475.00 = \$575.00}$$

Having been successful, I also find the Tenant is entitled to recover the filing fee paid to make the application.

I order that the Tenant is entitled to a monetary order in the amount of \$675.00 for the return of double the security deposit and in recovery of the filing fee.

Conclusion

Pursuant to sections 38, 67, and 72 of the *Act*, I grant the Tenant a monetary order in the amount of \$675.00 for the return of double the security deposit and in recovery of the filing fee. The order must be served on the Landlord. The 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 22, 2021

Residential Tenancy Branch