



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNR, MNSD

Introduction

This hearing dealt with the landlord's application for a monetary order as compensation for unpaid rent, and retention of the security deposit in partial satisfaction of the claim. The landlord participated in the hearing and gave affirmed testimony. The tenant did not appear.

Issues to be decided

- Whether the landlord is entitled to a monetary order under the Act, and retention of the security deposit

Background and Evidence

Pursuant to a written residential tenancy agreement between the landlord and two tenants, the month-to-month tenancy began on December 1, 2008. Rent in the amount of \$1,450.00 was payable on the first day of the month, and a security deposit of \$725.00 was collected on or about December 1, 2008. Full rent was not paid for January 2009, and without notice the tenants are understood to have vacated the unit on January 1, 2009. The tenants did not provide the landlord with a forwarding address. After advertising, the landlord found new renters effective from March 1, 2009. The landlord seeks a monetary order for unpaid rent / loss of rental income for January & February 2009. In his application the landlord did not apply to recover the filing fee.

The landlord described the process whereby he delivered the application for dispute resolution and notice of hearing package to one of the tenants at her workplace on April 27, 2009. When he arrived there, he was informed that the tenant was absent from

work on what was a day off. In the result, the landlord left the package with another employee who undertook to give it to the tenant on her return to work the next day.

Analysis

Section 88 of the Act speaks to **How to give or serve documents generally**. Section 89 of the Act addresses **Special rules for certain documents**. Section 71 of the Act speaks to **Director's orders: delivery and service of documents**. Further, Residential Tenancy Policy Guideline # 12 addresses **Service Provisions**; this guideline includes a description under heading # 11 of Orders for Substitutional Service.

Based on the documentary evidence and testimony of the landlord, I find that the tenant was not served with the application for dispute resolution and notice of hearing package pursuant to the statutory requirements. Accordingly, I must dismiss the application with leave to reapply.

The landlord has the option of reapplying for dispute resolution and serving the application for dispute resolution and notice of hearing package in the prescribed manner.

The full text of the legislation, fact sheets, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.rto.gov.bc.ca/ Information and assistance is available to the public in the Lower Mainland region as follows:

Hours: 8:30 a.m. – 4:30 p.m, Monday through Friday

400 – 5021 Kingsway, Vancouver, BC V5H 4A5. Telephone: 604-660-1020

Conclusion

Pursuant to all of the above, I hereby dismiss the application with leave to reapply.

DATE: July 30, 2009

Dispute Resolution Officer