



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants has made application for a monetary Order for return of the security deposit, pet deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenants provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent to each landlord on March 8, 2012. Canada Post receipts and tracking numbers were provided as evidence of service to each landlord.

The tenants were not provided with a service address for the landlord; they completed a land title search at a BC government office to locate the landlord's residential address. The search provided the landlord's names, address, phone number and postal code. The tenants had been telephoning the landlord at their number, in attempts to properly end the tenancy.

The tenant's went to the landlord's address and saw the landlord's vehicles on the property. The tenants then used the residential address for service of Notice of the hearing. The registered mail for each hearing package was returned by Canada Post, marked as "refused."

Refusal to accept registered mail is not a method that may be deployed to avoid service of documents. Therefore, I find that these documents are deemed to have been served in accordance with section 89 of the Act; neither of the landlords's attended the hearing.

Issue(s) to be Decided

Are the tenants entitled to return of double the deposits paid?

Are the tenants entitled to filing fee costs?

Background and Evidence

The tenancy commenced in May 2010; a tenancy agreement was not signed. A security deposit in the sum of \$800.00 was paid and a pet deposit of \$150.00 was paid.

A condition inspection report was completed at the start of the tenancy; the tenants were not provided with a copy of that report.

The tenancy ended on January 1, 2012.

Throughout January 2012, the tenants spoke with the landlord's on approximately 5 occasions in attempt to complete a move-out inspection; the landlord would not cooperate with these efforts.

On February 6, 2012, the female tenant went to the landlord's home at approximately 10 p.m.; no one was home. The tenant posted a note to the door which included the tenant's names and their forwarding address.

The landlord has not returned the deposits.

Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

The amount of deposit owed to a tenant is also contingent on any dispute related to damages and the completion of move-in and move-out condition inspections. In this case there is no dispute related to damages.

I have no evidence before me that a move-in condition inspection report was given to the tenants and that a move-out condition inspection was completed as required by the Act. Further, I have no evidence that that landlord has repaid the deposit as requested in writing by the tenants. I find that the landlord was given the tenant's forwarding address effective 3 days after it was posted to the door; April 9, 2012.

Therefore, I find that the tenants are entitled to return of double the pet and security deposits paid to the landlord, in the sum of \$1,900.00.

I find that the tenant's application has merit and that the tenants are entitled to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Conclusion

I find that the tenants have established a monetary claim, in the amount of \$1,950.00, which is comprised of double the deposits paid and \$50.00 in compensation for the filing fee paid by the tenant for this Application for Dispute Resolution.

Based on these determinations I grant the tenants a monetary Order for \$1,950.00. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: May 10, 2012.

Residential Tenancy Branch