



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MDSD & FF

Introduction

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenant by mailing, by registered mail to where the tenant resides. The landlord testified the documents were returned unclaimed. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. I determined there was sufficient service. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to A Monetary Order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The landlord and the tenant entered into a written month to month tenancy agreement with the tenant and co-tenant that provided that the tenants pay rent in the sum of

\$1200 per month payable on the first day of each month. The tenants each paid a security deposit of \$300 for a total of \$600.

The respondent vacated the rental unit some time in April or May without given written notice. His co-tenant gave written notice for the end of May and vacated at that time. The co-tenant paid his share of the rent. The respondent failed to pay his share of the rent leaving a balance of \$600. The respondent also failed to return a FOB that cost the landlord \$50 to replace. The landlord has returned \$300 of the security deposit to the co-tenant.

Analysis

Analysis - Monetary Order and Cost of Filing fee

I determined the respondent failed to pay his share of the rent for the month(s) of May and the sum of \$600 remains outstanding. In addition the landlord has established a claim against the tenant in the sum of \$50 because the respondent failed to return his FOB for a total of \$650. I granted the landlord a monetary order in the sum of \$650 plus the sum of \$50 in respect of the filing fee for a total of \$700.

Security Deposit

I determined the security deposit plus interest totals the sum of \$300. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$400.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: August 14, 2013

Residential Tenancy Branch

