



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, 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 tenant to serve a landlord by mailing, by registered mail to the address for service provided by the landlord. The tenant testified the documents were returned by the landlord as unclaimed. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Landlord by mailing, by registered mail to the forwarding address provided by the Landlord on September 24, 2013. 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 tenant is entitled to the return of double the security deposit/pet deposit?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on November 1, 2009 and continue for a one year fixed term. The rent was \$750 per month. The tenant testified that he paid a security deposit of \$375 at the start of the tenancy.

The tenant testified the tenancy ended on September 19, 2012. A search of the Residential Tenancy Branch previous files indicate that on August 27, 2012 the tenant was successful in having a one month Notice to End Tenancy cancelled.

The tenant(s) provided the landlord with his/her their forwarding address in writing on by mailing, by registered mail to the landlord's address for service on September 19, 2012. As a result I determined the tenant has provided the landlord with his forwarding address in writing within one year of the end of the tenancy as required by section 38 of the Residential Tenancy Act.

On December 10, 2012 an arbitrator dismissed the tenant's application to recover his deposit with liberty to re-apply as neither party appeared.

Law

The Residential Tenancy Act provides that a landlord must return the security deposit plus interest to the tenants within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing unless the parties have agreed in writing that the landlord can retain the security deposit, the landlord already has a monetary order against the tenants or the landlord files an Application for Dispute Resolution within that 15 day period. It further provides that if the landlord fails to do this the tenant is entitled to an order for double the security deposit.

Analysis

The tenant paid a security deposit of \$375 at the start of the tenancy. The Residential Tenancy Act Regulations do not provide for the payment of interest on the security deposit for the time in question. I determined the tenancy ended on September 19, 2012. I further determined the tenants provided the landlord with their forwarding address in writing on September 19, 2012. The parties have not agreed in writing that the landlord can retain the security deposit. The landlord does not have a monetary

order against the tenants and the landlord failed to file an Application for Dispute Resolution within the 15 days from the later of the end of tenancy or the date the landlord receives the tenants' forwarding address in writing. As a result I determined the tenants have established a claim against the landlord for double the security deposit or the sum of \$750 ($\$375 \times 2 = \750). The dismissed the tenant's claim to add the cost of the filing fee from a previous application. A monetary order has already been made for that sum and to add it to this order would be duplication. .

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$750 plus the sum of \$50 in respect of the filing fee for a total of \$800.

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: November 29, 2013

Residential Tenancy Branch

