



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 627417 BC Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover double the security deposit and to recover the filing fee from the landlords for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on December 11, 2013. Canada Post tracking numbers were provided by the tenant in documentary evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the tenant entitled to recover double the security deposit?

Background and Evidence

The tenant testifies that this tenancy started on February 15, 2012. Rent for this unit was \$595.00 per month due on the first of each month. The tenant paid a security deposit of \$297.50 at the start of the tenancy. The tenancy ended on April 30, 2013.

The tenant testifies that a previous hearing was held on August 21, 2013 concerning the landlord's application to keep all or part of the security deposit. The tenant has provided a copy of that previous Decision and Order. The landlord did not attend that hearing for their own application however the tenant did attend.

The previous Arbitrator ordered the landlord to return the security deposit to the tenant and granted the tenant a final, legally binding Monetary Order for the amount of \$297.50. The tenant testifies that at the previous hearing the tenant was advised by the Arbitrator to file her own application to recover double the security deposit. The tenant testifies that she did not serve the landlord with the Monetary Order until the tenant had filed this application to recover double the security deposit.

Analysis

The tenant testifies that she was advised to file her own claim to recover the doubled portion of the security deposit. However, I have no evidence before me to show when the landlord filed their application and whether or not this was filed within 15 days of receiving the tenants forwarding address or the end date of the tenancy. Furthermore, the previous Arbitrator has made no mention in the previous decision allowing the tenant leave to reapply for the doubled provision of the security deposit.

I refer the parties to *Section 77* of the *Act* which states that, except as otherwise provided in the *Act*, a Decision or an Order is final and binding on the parties. Therefore any findings made by the Arbitrator that presided over the prior hearing are not matters that I have any authority to alter and any Decision that I render must honour the existing

findings. Therefore the tenant received a final legally binding Monetary Order for the security deposit and is now barred by the common law principle, *res judicata*, from filing a claim for the security deposit again. As the tenant has insufficient evidence to show that the tenant would be entitled to double the security deposit I am unable to deal with this at this hearing today particularly in light of the previous decision that indicates that the Monetary order issued to the tenant is a final and binding.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

The tenant is at liberty to enforce the previous Monetary Order in the Provincial Court of British Columbia.

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: March 31, 2014

Residential Tenancy Branch

