



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, OLC, RPP, OPT

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have requested return of the security deposit, return of their personal property, an Order the landlord comply with the Act and an Order of possession for the rental unit.

The tenant provided affirmed testimony, that on July 7, 2014 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the landlord via registered mail. A Canada Post tracking number and receipt was provided as evidence of service.

The tenants used the landlord's address given on the Intent to Rent form completed prior to the tenancy. A tenancy agreement was not signed and no other address was provided by the landlord.

Pursuant to section 71 of the Act, I find that the hearing documents are deemed to have been sufficiently served to the landlord at the address provided when the tenancy began; effective July 12, 2014, in accordance with section 89 of the Act. However the landlord did not appear at the hearing.

Preliminary Matters

The tenant applied for dispute resolution through a Service BC office. She did not have any paid time remaining on her phone, so was unable to receive a call when her hearing package was available to be picked up. On July 7, 2014 the tenant went to the Service BC office; she now had the money needed to serve the Landlord via registered mail and service was completed that day.

The Act requires an applicant to serve the respondent a copy of the application within 3 days of making it. In this case I find, due to financial constraints, the tenant served the landlord as soon as she could and that the landlord has not been prejudiced by service completed effective July 12, 2014. The landlord was at liberty to attend the hearing and to request an adjournment, should he have required more time to prepare for the hearing; he did not.

The tenant said they have located another rental unit and do not require an Order of possession for the unit in dispute.

Issue(s) to be Decided

Must the landlord be Ordered to return the security deposit to the tenant's?

Must the landlord be Ordered to comply with the Act and to return the tenant's personal property?

Background and Evidence

The tenancy commenced January 1, 2014; rent was \$800.00 due on the 1st day of each month. A security deposit in the sum of \$400.00 was paid.

On June 27, 2014 there was an altercation with the landlord. The landlord threatened the tenants and a friend. The tenant said the landlord threatened to kill her friend, resulting in the tenants fleeing the unit. The RCMP were called; they have advised the tenants that they should not return to the property. The tenant believes the landlord has been charged with an offence and placed on some sort of "Peace Bond" that includes a no contact condition.

The tenant's mother has recently gone by the rental unit and saw the landlord placing the tenant's personal property on the lawn. The tenants were told by the RCMP that the landlord would send an email indicating when they could go to the property to retrieve their belongings; this has not yet occurred.

The tenant said she would like to be able to retrieve their property as soon as possible. All of the tenant's belongings remain at the rental unit property.

The tenant confirmed that their written forwarding address was given to the landlord as part of this application served to the landlord effective July 12, 2014.

Analysis

In the absence of evidence to the contrary, and in the absence of the landlord who was served with notice of this hearing **I find and Order**, pursuant to section 65(1)(e) of the Act:

- That the landlord immediately return the tenant's personal property to the tenants;
- That the tenants or their agent have the right, barring any Order of the Court denying access, within one week of receipt of this decision to enter onto the rental property to retrieve the personal property; and

- That the landlord must allow the tenants or their agents' access to the interior of the rental unit should any personal property be missing, so the tenants or their agent can determine if property has been left inside of the rental unit.

The tenants are at liberty to seek the assistance and advice of the police in relation to entry to the rental unit property.

I find that the landlord has received the tenant's written forwarding address effective July 12, 2014, as part of the application for dispute resolution served to the landlord by registered mail. Therefore, I find that the landlord has fifteen days from July 12, 2014 to comply with the legislated requirements related to return of a security deposit.

I find that the tenant's application requesting return of the security deposit is premature, as fifteen days has not elapsed from the time the written forwarding address was given to the landlord. Therefore, I find that the application requesting return of the deposit is dismissed with leave to reapply.

Conclusion

The landlord is Ordered to return the tenant's personal property as set out above.

The tenant's claim for return of the security deposit is dismissed with leave to reapply.

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: July 18, 2014

Residential Tenancy Branch

