



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

A hearing was conducted by conference call in the presence of the applicants and in the absence of the respondent although duly served. I waited 10 minutes past the scheduled start time and recalled the hearing. The respondent still had not appeared. 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. The Act further provides that a documents are deemed received 5 days later. I find that the Application for Dispute Resolution/Notice of Hearing was served by mailing, by registered mail to where the respondent resides on June 3, 2014. The applicants testified the respondent did not claim the documents from Canada Post and they were returned. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. The applicants produced evidence from Canada Post tracking service that notification cards were left with the respondent. I determined there was sufficient service on the respondent. 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/pet damage deposit?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a tenancy agreement that provided that the tenancy would start on November 1, 2012 and continue on a month to month basis. The rent was \$1550 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$775 on October 1, 2012 and a pet damage deposit of \$200 on November 15, 2012 for a total of \$975. The tenancy ended on April 11, 2014.

The tenant(s) provided the landlord with his/her their forwarding address in writing by mailing, by registered mail addressed to the landlord on May 8, 2014. The landlord accepted delivery of this letter on May 9, 2014.

Law

The Residential Tenancy Act provides that a landlord must return the security deposit/pet damage 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/pet damage 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 tenants paid a security deposit/pet damage deposit of \$975. I determined the tenancy ended on April 30, 2014. I further determined the tenants provided the landlord with their forwarding address in writing on May 9, 2014. 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/pet damage deposit or the sum of \$1950 ($\$975 \times 2 = \1950).**

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$1950 plus the sum of \$50 in respect of the filing fee for a total of \$2000.

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 07, 2014

Residential Tenancy Branch

