



Dispute Resolution Services

Page: 1

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.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served by mailing, by registered mail to where the respondent resides on May 28, 2014. A search of the Canada Post tracking service indicates that the item was successfully delivered on May 30, 2014. The tenants testified he and the landlord have subsequently exchanged evidence packages. 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 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 fixed term written tenancy agreement that provided that the tenancy would start on September 1, 2013, end on April 30, 2014 and become month to month after that. The rent was \$2500 per month payable on first day of each month. The tenant(s) paid a security deposit of \$1250 on August 15, 2013.

The landlord gave the tenant a notice they were selling the rental unit and the tenant must vacate by the end of April. The tenant initially disputed this but subsequently left on April 30, 2014.

The tenant(s) testified he provided the landlord with his/her their forwarding address in writing on May 4, 2014.

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. The principles of natural justice require that a respondent have sufficient notice of the claims against him/her.

Analysis

The tenants paid a security deposit of \$1250 on August 15, 2014. I determined the tenancy ended on April 30, 2014. I further determined the tenant provided the landlord with his forwarding address in writing on May 4, 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.

However, the Application for Dispute Resolution does not seek an order for double the security deposit. Thus the respondent has not been given notice of this claim. The principle of natural justice require that a respondent be given sufficient notice of the

claim against him/her. The applicant was given an option of filing a new application where he sets out his claim for double the deposit or proceeding with this claim for the return of the deposit only. The applicant stated he wished to proceed with the within claim. I determined the applicant has established a claim for the return of the security deposit in the sum of \$1250.

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$1250 plus the sum of \$50 in respect of the filing fee for a total of \$1300.

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: September 11, 2014

Residential Tenancy Branch

