



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNSD

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 party to serve another by mailing by registered mail to where the other party resides. 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 where the landlord resides on March 3, 2015 and there was sufficient service despite the landlord failing to pick up the documents. 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 tenancy agreement that provided that the tenancy would start on July 1, 2013. The tenancy agreement provided that the tenant(s) would pay rent of \$800 per month payable on the first day of each month. The tenants paid a security deposit of \$400 at the start of the tenancy.

The tenancy ended on January 31, 2015. The tenants provided the landlord with their forwarding address in writing by mailing by registered mail to where the landlord resides on February 4, 2015 and the notice containing the forwarding address was sufficiently served 5 days after mailing even though the landlord failed to pick up their registered mail.

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 tenants paid a security deposit of \$400 at the start of the tenancy on or about July 1, 2013. I determined the tenancy ended on January 31, 2015. I further determined the tenants provided the landlord with their forwarding address in writing 5 days after mailing by registered mail on February 4, 2015. 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 \$800.

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$800 plus the sum of \$50 in respect of the filing fee for a total of \$850.

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: June 19, 2015

Residential Tenancy Branch

