



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. A monetary order in the sum of \$791.50 for the return of the security deposit.
- b. An order to recover the cost of the filing fee.

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 the address provided by the other party. The tenancy began in 2011 and the landlord provided the tenant with an address at that time. She subsequently moved from that address. The tenancy ended on June 30, 2015 and the parties communicated extensively by e-mail during that time. The landlord used her work address in those e-mails. The tenant served the landlord by mailing on August 28, 2015, by registered mail to the address provided by the landlord in those e-mails. On August 31, 2015 the package was accepted for delivery at that address by a person other than the landlord. However, in October the package was returned to the tenant from a Montreal post office with the notation "undeliverable." I determined there was sufficient service as the tenant mailed the package by registered mail to the address provided by the landlord. 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 tenancy agreement that provided that the tenancy would start on May 1, 2011. The rent was \$2200 per month payable in advance on first day of each month. The tenant(s) paid a security deposit of \$1100 at the start of the tenancy.

The tenancy ended on June 30, 2015.

The tenant(s) provided the landlord with his/her their forwarding address in writing on May 28, 2015. .

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 unless the tenant specifically waives the claim for doubling..

Analysis

The tenants paid a security deposit of \$1100 in May 2011. I determined the tenancy ended on June 30, 2015. I further determined the tenants provided the landlord with their forwarding address in writing on May 31, 2015. The tenants agreed in writing with the landlord that the landlord could deduct \$178.50 for carpet cleaning and \$130 for cleaning for a total of \$308.50 leaving a balance of \$791.50 for the security deposit. The tenants did not agree the landlord could withhold any further sum. 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. Further the landlord has disentitled her right to claim against the security deposit as the landlord failed to conduct a condition inspection at the start and end of the tenancy. The tenants stated at the hearing she was waiving her right to claim double the security deposit. As a result I determined the tenants have established a claim against the landlord for the return of the balance of the security deposit in the sum of \$791.50.

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$791.50 plus the sum of \$50 in respect of the filing fee for a total of \$841.50.

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.

Dated: January 18, 2016

Residential Tenancy Branch

