



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

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

- a. A monetary order in the sum of \$600 for the return of his 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 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. The tenant testified he mailed a copy of the Application for Dispute Resolution/Notice of Hearing to the respondent by registered mail on March 9, 2016. The respondent failed to claim the parcel. I determined there was sufficient service even though the respondent failed to pick up his registered mail package. 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 a monetary order and if so how much?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into an oral tenancy agreement that provided that the tenancy would start on January 1, 2016 and continue on a month to month basis. The rent was \$950 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$600 at the start of the tenancy. The rental unit was not satisfactory and on January 5, 2016 the tenant gave the notice he was ending the tenancy on January 31, 2016. The tenant vacated the rental unit on January 31, 2016. He provided the landlord with his forwarding address in writing on February 14, 2016.

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. However, in this case the tenant did not claim the return of double the security deposit in his Application for Dispute Resolution..

Analysis

The tenants paid a security deposit of \$600 at the start of the tenancy. I determined the tenancy ended on January 31, 2016. I further determined the tenant provided the landlord with his forwarding address in writing on February 14, 2016. 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. The tenant was given the option of re-filing and claiming double the deposit or proceeding with his claim for \$600. The tenant chose to proceed with his claim for the return of the \$600 deposit only. As a result I determined the tenant has established a claim against the landlord in the sum of \$600. .

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$600 plus the sum of \$100 in respect of the filing fee for a total of \$700.

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: July 15, 2016

Residential Tenancy Branch

