



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 \$900 for double 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 sufficiently 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 Tenant to serve a landlord by mailing, by registered mail to where the landlord carries on business. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to claim their registered mail. I find that the Application for Dispute Resolution/Notice of Hearing was served on the respondent by mailing, by registered mail to where the landlord carries on business on March 5, 2016. I find that the Amended Application for Dispute Resolution was served on the respondent by mailing, by registered mail to where the landlord carries on business on March 15, 2016. I determined both documents were sufficiently served on the landlord even though the landlord refused to claim the two 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 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 written tenancy agreement that provided that the tenancy would start on April 1, 2011 with rent as \$900 per month payable in advance on first day of each month. The tenant(s) paid a security deposit of \$450 at the start of the tenancy. The tenancy ended on January 31, 2016. .

The tenant(s) provided the landlord with his/her their forwarding address in writing on December 30, 2016.

The landlord returned \$305 of the security deposit in early March. The tenant received the cheque on March 9, 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.

Analysis

The tenants paid a security deposit of \$450 on March 8, 2011. I determined the tenancy ended on January 31, 2016. I further determined the tenants provided the landlord with their forwarding address in writing on December 30, 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. The landlord returned \$305 after the expiry of the 15 day period. As a result I determined the tenants have established a claim against the landlord for double the security deposit (\$900) minus the \$305 returned for a total of \$595.

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$595 plus the sum of \$100 in respect of the filing fee for a total of \$695.

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 06, 2016

Residential Tenancy Branch