



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kahl Realty & Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for unpaid rent, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on February 16, 2016 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant by registered mail. The landlord provided a tracking number. The mail was returned marked by Canada Post as refused.

The tenant vacated the rental unit in mid-January 2016. The tenant did not provide a written forwarding address.

The landlord had a repairperson, D.A. who worked at the rental unit; he knew the tenant. After the tenant vacated she had D.A. complete work at her new address. D.A. then provided the tenants' new address to the landlord and that address was used for service.

After the registered mail was sent to the tenant the owner of the rental unit where the tenant had moved contacted the landlord. The new landlord confirmed the address for the tenant and said he was calling as the tenant was not paying rent at the new address.

Based on the affirmed testimony of the landlord, who provided detailed testimony in relation to service and the steps taken to establish the tenants' new address I have applied section 71 of the Act, which provides:

Director's orders: delivery and service of documents

71 (1) *The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.*

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

(a) that a document must be served in a manner the director considers necessary, despite sections 88 [how to give or serve documents generally] and 89 [special rules for certain documents];

(b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;

(c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

The tenants' forwarding address was obtained via a person who had first-hand knowledge of the tenants' new address and the new landlord confirmed the address that was used for service to the tenant. Therefore, I find pursuant to section 71 of the Act that the tenant has been sufficiently served with notice of this hearing. Refusal of registered mail does not allow a party to avoid service.

Issue(s) to be Decided

Is the landlord entitled to compensation for unpaid January 2016 rent?

May the landlord retain the security deposit?

Background and Evidence

The landlord supplied a copy of the tenancy agreement. The tenancy started August 17, 2015 and was to end effective January 31, 2016 at which point the tenant was to vacate. Rent in the sum of \$2,400.00 was due on the first day of each month. The landlord is holding a security deposit in the sum of \$1,200.00.

The tenant did not pay January 2016 rent and vacated sometime around January 15, 2016. A ten day Notice for unpaid rent was issued. The tenant did not supply a forwarding address to the landlord.

The landlord has claimed \$2,400.00 for January 2016 rent and to retain the deposit.

Analysis

Pursuant to section 44(f) of the Act I find that the tenancy ended effective January 31, 2016, the date the tenant was required to vacate in accordance with the terms of the tenancy agreement.

In the absence of the tenant at this hearing I find that the landlord is entitled to compensation in the sum of \$2,400.00 for unpaid January 2016 rent.

Pursuant to section 72 of the Act I find that the landlord is entitled to retain the security deposit in the sum of \$1,200.00 in partial satisfaction of the claim.

As the landlord's application has merit I find, pursuant to section 72 of the Act that the landlord is entitled to recover the \$100.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order for the balance of \$1,300.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to compensation for unpaid January 2016 rent.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding and 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 27, 2016

Residential Tenancy Branch