



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 689352 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This is an application brought by the tenant requesting a monetary order in the amount of \$2900.00.

The applicant testified that the respondent was served with notice of the hearing by registered mail that was mailed on March 2, 2016, however the respondent did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing, and I therefore conducted the hearing in the respondent's absence.

The applicant's testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not the applicant has established monetary claim against the respondent, and if so in what amount.

Background and Evidence

The applicant testified that this tenancy began on May 31, 2014, and ended on July 31, 2015.

The applicant testified that a security deposit of \$725.00, and a pet deposit of \$725.00, were both paid on May 11, 2014, for a combined deposit of \$1450.00.

The applicant testified that the landlord was served with a forwarding address in a text on August 1, 2015.

The applicant is requesting a monetary order for double her \$1450.00 security/pet deposit, since the landlord did not return the deposit within the time frame required under the Residential Tenancy Act.

Analysis

The applicant has applied for the return of double the security/pet deposit; however the applicant has not given the landlord a forwarding address in writing, by one of the methods required by the Residential Tenancy Act, prior to applying for arbitration.

The applicant testified that a forwarding address was given to the landlord in a text on August 1, 2015; however text is not a method required under the Act for giving or serving documents. Section 88 of the Residential Tenancy Act, copy below, shows the required methods:

88 All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

(a) by leaving a copy with the person;

- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mail box or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (j) by any other means of service prescribed in the regulations.

Further, section 39 of the Residential Tenancy Act states:

39 Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

- (a) the landlord may keep the security deposit or the pet damage deposit, or both, and
- (b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

Therefore, since the tenant has not given the landlord a forwarding address in writing, and since more than one year has passed since the end of the tenancy, the landlord may keep the deposits and the tenants right to return of the deposits is extinguished.

Conclusion

I therefore dismiss this application in full, without leave to reapply.

*Note: during the conference call I stated that the application would be dismissed **with** leave to reapply, however at that time I had not noticed that the tenant has failed to give the landlord a forwarding address within the one-year timeframe required under section 39, thereby extinguishing her right to the return of the deposit.*

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: October 17, 2016

Residential Tenancy Branch

