



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, MT, OLC PSF

Introduction

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

- a. An order to cancel a one month Notice to End Tenancy for end of employment
- b. An order the return of her security deposit and pet damage deposit
- c. An order that the landlord comply with the Act, regulations and/or the tenancy agreement.
- d. A monetary order.
- e. 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. I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail to where the landlord resides on December 30, 2016 and that it was sufficiently served even though the respondent failed to pick up the documents.

I dismissed the tenant's application to cancel a one month notice as that was included inadvertently.

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 September 1, 2016. The tenant moved in on September 4, 2016 as the rental unit was not ready. The tenancy agreement provided that the rent was \$1100 per month payable in advance on first day of each month. The tenant(s) paid a security deposit of \$550 and a pet damage deposit of \$350 prior to the start of the tenancy.

The tenancy ended on November 14, 2016 after the parties carried out the Post tenancy Condition Inspection although the tenant had paid the rent for all of November 2016.

The tenant(s) provided the landlord with his/her their forwarding address in writing on November 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.

Analysis

The tenants paid a security deposit of \$550 and a pet damage deposit of \$350 for a total of \$900 prior to the start of the tenancy. I determined the tenancy ended on November 14, 2016. I further determined the tenants provided the landlord with their forwarding address in writing on November 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 stated she was not waiving her right to the doubling of the deposits. As a result I determined the tenant has established a claim against the landlord for double the security deposit and pet damage deposit in the sum of \$1800 ($\$900 \times 2 = \1800).

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$1800 plus the sum of \$100 in respect of the filing fee for a total of \$1900.

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 final and binding on the parties.

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: February 15, 2017

Residential Tenancy Branch