



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This review hearing was convened by way of conference call concerning an application made by the tenant for return of the security deposit or pet damage deposit, and the landlord's application for a review hearing. The tenant had received a monetary order as against the landlord for double the amount of the security deposit and recovery of the filing fee for the cost of the application, and the landlord was successful in obtaining this review hearing.

The Review Hearing was scheduled to convene on March 14, 2018 at 9:30 a.m. and the landlord attended, however no one for the tenant attended. The landlord testified that the tenant had not provided the landlord with a forwarding address and the landlord sent the hearing package for this review hearing to the tenant at a Calgary, Alberta address that the tenant had provided prior to the tenancy. The landlord then received a monetary order from the tenant by registered mail which contained an address in British Columbia for the tenant, and the landlord sent additional material to the tenant at that address by registered mail, but did not include the original documentation that was sent to Calgary, Alberta. The original documentation sent to the tenant included notice of this review hearing.

I adjourned the hearing to April 11, 2018 at 3:30 p.m. and my Interim Decision was provided to the landlord which ordered the landlord to re-serve the tenant with a copy of the Review Consideration Decision made on January 15, 2018, the notice of hearing, and all evidence that the landlord wishes to rely on, within 3 days of receiving the Interim Decision.

The landlord attended the hearing on April 11, 2018 and testified that the tenant was served with the material as ordered on April 3, 2018 by registered mail at the return address of the tenant as indicated on the envelope that the tenant sent to the landlord containing the monetary order, and the landlord has provided a copy of a Registered

Domestic Customer Receipt addressed to the tenant and a Canada Post cash register receipt bearing that date as evidence. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

The landlord gave affirmed testimony, however the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

All evidence and testimony provided by the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit and recovery of the filing fee, or should the Decision of the director be set aside?

Background and Evidence

The landlord testified that this fixed-term tenancy began on September 1, 2015 and expired on August 31, 2016 at which time the tenancy was to end. The tenant actually vacated the rental unit on or about August 25, 2016.

Rent in the amount of \$2,500.00 per month was payable on the 1st day of each month, which was shared by tenants, and there are no rental arrears. At the outset of the tenancy the landlord collected security deposits from 4 tenants in the amount of \$312.50 each, for a total of \$1,250.00, and this particular tenant paid his share of \$312.50 at the outset of the tenancy. No pet damage deposits were collected.

The rental unit is a single family dwelling, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord further testified that the tenant has not provided the landlord with a forwarding address in writing, and the landlord only learned of the tenant's address from the return address on the envelope hat the tenant sent to the landlord containing a monetary order. The tenant had been successful in obtaining the monetary order in the amount of \$775.00, being \$675.00 for double the amount of the security deposit and recovery of the \$100.00 filing fee, however the landlord was never served with notice of that hearing.

The landlord seeks to have the monetary order set aside, and has provided a copy of the Decision and monetary order as evidence for this hearing.

Analysis

The *Residential Tenancy Act* states that following a review hearing I may confirm, vary or set aside the original Decision and/or Orders made.

I have reviewed the evidentiary material, and there is no evidence of the tenant having provided a forwarding address to the landlord. I also note that the Decision of the director dated December 6, 2017 (the original Decision) states that the tenant testified that a forwarding address was provided to the landlord on August 25, 2016 in person and again by email on August 8, 2017. The tenant provided a copy of that email for the original hearing, as well as other emails, however none contain a forwarding address of the tenant.

The landlord disputes that the tenant ever provided a forwarding address. I also note that the original Decision indicates that the tenant testified that the security deposit collected by the landlord was \$337.50, and the tenancy agreement clearly states \$1,250.00. The landlord testified that each of the 4 tenants paid \$312.50, which is consistent with collecting no more than half of the monthly rent.

In the absence of any testimony or evidence from the tenant, and having found that the tenant has been properly served with notice of this Review Hearing, I accept the landlord's testimony and evidentiary material, and I set aside the original Decision.

Conclusion

For the reasons set out above, the Decision and Order made on December 6, 2017 are hereby set aside.

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: April 12, 2018

Residential Tenancy Branch