



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, RR, PSF, LRE, FFT, MND, MNDC, MNSD, FFL

Introduction

This was a cross-application hearing for Dispute Resolution under the Residential Tenancy Act ("the Act"). The matter was set for a conference call hearing.

The Landlord applied requesting a monetary order for damage to the unit; a monetary order for money owed or compensation for damage or loss under the Act, regulations, or tenancy agreement; to keep all or part of a pet damage deposit or security deposit, and to recover the cost of the application fee.

The Tenant applied for more time to dispute a notice to end tenancy; to deduct the cost of repairs services or facilities from the rent; for the Landlord to provide services and facilities required by law; and to recover the cost of the filing fee.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The parties testified that the Tenant moved out of the rental unit on September 19, 2018. The portion of the Tenant's application to cancel the 1 Month Notice to End Tenancy for Cause is no longer relevant and is dismissed.

The applications for compensation of both the Landlord and Tenant were dismissed with leave to reapply due to concerns with service of the Notice of Hearing and evidence.

The Tenant testified that he was away travelling in Europe and after applying for dispute resolution he did not serve the Notice of Dispute Resolution Proceeding documents on the Landlord.

The Landlord testified that he sent his Notice of Dispute Resolution Proceeding to the Tenant on September 6, 2018, using registered mail. The Landlord testified that he retrieved the registered mail notification from the Tenant's mailbox and left it with the building concierge to give to the Tenant. The Landlord testified that he believes the concierge gave the mail, including the registered mail notification, to the Tenant on September 30, 2018. The Landlord did not provide any proof of service evidence from the concierge in support his submission.

The Tenant testified that he never received the registered mail notification from the concierge, or the Landlord, and that he was away travelling in Europe and the U.S. and could not receive the registered mail. The Tenant testified that he was in New York and returned in mid-September. He testified that there was no registered mail slip on his door.

In the circumstances, I find that it is not reasonable to conclude that the Landlord and Tenant received each other's Notice of Dispute Resolution Proceeding and documentary evidence.

I find that both parties were not properly served with the Notice of Hearing documents and they did not have advance notice of the case against them. Both parties' applications are dismissed with leave to reapply.

The parties both confirmed their addresses for service of documents at the end of the hearing. The addresses were repeated and confirmed as accurate. The Tenant confirmed that the Landlord could serve him at the North Vancouver address he provided at the hearing.

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 19, 2018

Residential Tenancy Branch