Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AMBER PROPERTIES LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, MNSD, FFT

Introduction

The tenants apply to recover a $440.00 security deposit and an alleged $200.00 overpayment for parking as well as the filing fee for this application.

The respondent landlord did not attend for the hearing within 10 minutes after its scheduled start time at 1:30 p.m. on February 9, 2021. The teleconference hearing connection remained open during that time in order to enable the parties to call into the teleconference hearing. The call-in numbers and participant codes provided in the Notice of Hearing were confirmed as correct. The teleconference system audio console confirmed that the tenants SJ and YL and this arbitrator were the only ones who had called into this teleconference during that period.

SJ showed that the Notice of Dispute Resolution Proceeding was served on the landlord by registered mail (Canada Post tracking number shown on cover page of this decision) to the address provided by the landlord in the tenancy agreement (though the landlord misspelled the postal code in the agreement, typing a “B” as the first letter of the code, instead of the obvious “V” used in all BC postal codes) and as provided in a letter from the landlord after the end of the tenancy. Canada post records show the mail went “unclaimed” by the landlord and was returned to sender.

I find the landlord has been duly served with notice of this hearing. A party cannot avoid the dispute resolution process by declining to retrieve its mail.

SJ testifies that during the early part of this tenancy, the tenants were paying for two parking spots at $20.00 per month for each. In May 2017 the landlord was informed that only one spot was required yet continued to recover an extra $20.00 for the next ten months. On this uncontested evidence I award the tenants $200.00 as claimed.

This tenancy ended January 31, 2020. The parties conducted a move out inspection and the landlord prepared a condition report in which the tenants provided their forwarding address in writing. Since then the landlord has not repaid the $440.00 security deposit nor has it made application to keep all or any portion of it.

Section 38 of the *Residential Tenancy Act* (the "*RTA*") directs that once a tenancy has ended and once the landlord has received a tenant's forwarding address in writing, the landlord has a 15 day window to either repay the deposit money or to make application to keep it. If a landlord fails to do either within that 15 day period it must account to the tenant for double the deposit.

On the facts before me, that is the circumstance here. However, the tenants have not claimed the doubling penalty in their application. Residential Tenancy Policy Guideline 17, "Security Deposit and Set off [*sic*]" provides that in such a circumstance an arbitrator is to award the double unless the tenant specifically declines it. At this hearing the question was put to the tenant SJ and he did not decline the doubling.

As a result, the tenants are entitled to recover their $440.00 security deposit, doubled to $880.00.

I award the tenants recovery of the $100.00 filing fee for this application.

The tenants will have a monetary order against the landlord for the total amount of $1180.00.

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 09, 2021

Residential Tenancy Branch