



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

A hearing was conducted by conference call in the presence of the tenant 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. It is deemed received 5 days later. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. The tenant testified he mailed a copy of the Application for Dispute Resolution/Notice of Hearing by registered mail to where the landlord resides on July 24, 2014. A search of the Canada Post tracking service indicates delivery was attempted on July 28, 2014 and a card left indicating where the document could be picked up. The landlord failed to pick up the documents. I determined there was sufficient service despite the fact that the landlord refused to pick up the documents. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to the return of the security deposit/pet deposit?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began May 1, 2013. The rent was \$1550 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$750 and a pet damage deposit of \$750 at the start of the tenancy. .

The tenancy ended on May 1, 2014. The tenant(s) provided the landlord with his/her their forwarding address in writing on June 23, 2014 by mailing it addressed to the landlord by registered mail. I determined there was sufficient service even though the landlord failed to pick up the letter containing the forwarding address.

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. However, the tenant did not include a claim for double the security deposit and pet damage deposit in the Application for Dispute Resolution.

Analysis

The tenants paid a security deposit of \$750 and a pet damage deposit of \$750 at the start of the tenancy. I determined the tenancy ended on May 1, 2014. I further determined the tenant provided the landlord with his forwarding address in writing by mailing, by registered mail to where the tenant resides on June 23, 2014. 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. As a result I determined the tenant has established a claim against the landlord for the

return of the security deposit and pet damage deposit. The tenant has not claimed for a doubling of these sums and as a result no such order has been made..

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$1500 plus the sum of \$50 in respect of the filing fee for a total of \$1550.

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 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: January 14, 2015

Residential Tenancy Branch

