



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, MNSD, O

Introduction

TEXT

Issues(s) to be Decided

This is a request for a monetary order for \$493.54.

Decision & Reasons

The tenant has applied for the return of the security deposit; however the tenant did not give the landlord a forwarding address in writing, as required by the Residential Tenancy Act, prior to applying for dispute resolution.

The Residential Tenancy Act states:

Return of security deposit and pet damage deposit

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

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(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Landlord may retain deposits if forwarding address not provided

39 Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

(a) the landlord may keep the security deposit or the pet damage deposit, or both, and

(b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

Therefore at the time that the tenant applied for dispute resolution, the landlord was under no obligation to return the security deposit and this application is therefore premature.

Conclusion

I dismiss this claim with leave to re-apply. The tenants can file an application again after serving the landlord with a forwarding address in writing, and waiting the prescribed time limit.

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: June 26, 2009.

Dispute Resolution Officer