



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenants for an order for the return of double their security deposit and recovery of their filing fee. Despite having been personally served with the application for dispute resolution and notice of hearing on May 4, the landlord did not participate in the conference call hearing.

Issue to be Decided

Are the tenants entitled to a monetary order as claimed?

Background and Evidence

The tenants' undisputed evidence is as follows. The tenancy began in December 2011 at which time the tenants paid a \$500.00 security deposit. In March 2012, the tenants gave the landlord a one month notice to end tenancy advising that they would vacate the unit on April 7, although they would pay rent for the entire month of April. The tenants vacated the unit on April 6 and on April 7, gave the landlord's husband their forwarding address in writing. The landlord confirmed having received the forwarding address.

Analysis

Section 38 of the Act provides that landlords are obligated to deal with the security deposit within 15 days of the later of the end of the tenancy and the date the forwarding address is received in writing. I find as a fact that the landlord received the tenants' forwarding address on April 7, 2012 and while I accept that the tenants vacated the rental unit on April 6, I find that the last day of the tenancy was April 30 as this is the date the tenants' notice took effect.

The tenants filed their application for dispute resolution May 4, 2012. Because they did not wait for 15 days from April 30, the landlord may have been under the impression that it was too late to return the security deposit without incurring a penalty.

I find that the tenants' application was brought prematurely and I therefore dismiss it with leave to reapply.

Conclusion

The claim is dismissed with leave to reapply.

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 28, 2012

Residential Tenancy Branch