



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenants

The tenant testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on April 26, 2013 in accordance with Section 89. As per Section 90, the documents are deemed received by the landlord on the 5th day after it was mailed.

Based on the testimony of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of double the amount of the security deposit pursuant to Sections 38, 67, and 72 of the *Act*.

Background and Evidence

The tenant testified the tenancy began on August 2007 for the monthly rent of \$850.00 due on the 1st of each month with a security deposit of \$425.00 paid. They also submit the tenancy ended on April 30, 2013.

The tenant testified they provided their forwarding address to the landlord in writing on by way of providing him a copy of this Application for Dispute Resolution.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit

or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

As the tenants had only provided the landlord with their forwarding address when they sent the landlord their Application for Dispute Resolution, I find their Application is premature and was made without allowing the landlord the 15 days required under Section 38(1) of the *Act* to either return the deposit or file an Application to claim against it.

Conclusion

Based on the above, I dismiss the tenants' Application 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: July 19, 2013

Residential Tenancy Branch