



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 compelling the landlord to return their security deposit. Both parties participated in the conference call hearing.

Issue to be Decided

Should the landlord be required to return the security deposit?

Background and Evidence

The parties agreed that the tenancy began on or about June 1, 2012, at which time the tenant paid a \$1,750.00 security deposit and that it ended when the tenants vacated the unit on May 31, 2013. The tenants testified that they think they may have sent the landlord an email with their forwarding address but were certain that they had given their landlord their forwarding address by placing a copy of the address in the mailbox at the rental unit after they had vacated. The landlord testified that he may have received an email with the address but he was uncertain and he did not receive the copy left at the rental unit as he does not reside there or conduct business from that address.

Analysis

In order to trigger the landlord's obligation to deal with the security deposit, section 38 of the Act requires that the tenants provide their forwarding address in writing at the end of the tenancy. The evidence about the emailed address is not convincing as neither party was certain that the address had been emailed. I am unable to find that the landlord received the forwarding address placed in the mailbox of the rental unit. The landlord provided an address for service on the tenancy agreement which was different from the rental unit and as the landlord does not reside at the unit or conduct business from the

unit, I find that he did not receive the forwarding address prior to the time the tenants filed their application for dispute resolution. The landlord's obligation to deal with the security deposit had not yet been triggered at the time the tenant made their application and I therefore find that the application is premature and I dismiss the claim with leave to reapply.

At the hearing, the tenants confirmed that the address on the application for dispute resolution is their forwarding address and I advised the landlord that within 15 days of the date of the hearing and no later than October 17, he must either return the deposit in full or file a claim against the deposit with the Residential Tenancy Branch.

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: October 02, 2013

Residential Tenancy Branch

