



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to an application made by the tenant for money owed or compensation for damage or loss under the Residential Tenancy Act (referred to as the Act), regulation or tenancy agreement, the return of all or part of the pet damage or security deposit and to recover the filing fee from the landlord for the cost of this application.

The tenant filed this application and served the landlord by registered mail with a copy of the application and Notice of Hearing documents. The tenant provided the Canada Post tracking number and documentary evidence that the documents had been unclaimed and returned to the sender. Section 90 of the Act states that documents served by registered mail are deemed to have been received five days after such mailing. Based on this, I find that the landlord was served the hearing documents as required by the Act.

The tenant attended the hearing to give affirmed testimony and provided evidence in advance of the hearing. At the start of the hearing the tenant withdrew the portion of the application requesting money owed or compensation for damage or loss under the Act, as she had not submitted any documentary evidence in relation to this. As a result, I dismiss this portion of the claim with leave to re-apply.

All of the testimony and documentary evidence submitted by the tenant was carefully considered in this decision.

Issue(s) to be Decided

Is the tenant entitled to double the amount of the security and pet damage deposits?

Background and Evidence

The tenant testified that the tenancy started on July 1, 2012 on a month to month basis. Rent was payable by the tenant to the landlord in the amount of \$1,100.00 on the first of each month. The tenant paid \$550.00 as a security deposit and \$250.00 as a pet damage deposit before the tenancy started, which the landlord still retains.

The tenant testified that the tenancy ended on August 1, 2013 after she provided the landlord with a written notice to end the tenancy which the landlord accepted. The tenant testified that she had provided the landlord with a forwarding address after she had vacated the tenancy by regular mail. However, the tenant did not provide evidence of the forwarding address or evidence that it had been served to the landlord.

The tenant testified that the landlords had known her forwarding address throughout the tenancy and this is where the landlords should have returned the security and pet damage deposits to. As a result, the tenant claims double the amount of the deposits in the amount of \$800.00.

Analysis

Section 38(1) of the Act states that, within 15 days of the landlord receiving the tenant's forwarding address in writing after the tenancy ends, the landlord must repay the security deposit or make an application to claim against it.

The tenant testified that the landlord and tenant both agreed to mutually end the tenancy. In the absence of the landlord's testimony or evidence to prove otherwise, I accept that the tenancy ended on this date.

However, I find that the tenant has failed to provide sufficient evidence that the landlord has been provided with a forwarding address. The tenant testified that she provided this in a letter to the landlord which she served by mail, but failed to provide a copy of the letter or any supporting evidence that the forwarding address was served to the landlord. Therefore, there is no requirement on the landlord to return the deposits until such time a forwarding address has been provided to the landlord.

Conclusion

For the reasons set out above, I dismiss the tenant's application with leave to re-apply.

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: November 22, 2013

Residential Tenancy Branch

