



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes:

MNSD; FF

Introduction

This is the Tenants' application for return of the security deposit and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony at the Hearing.

The parties agreed that they entered into an oral tenancy agreement in October, 2013, and that the Landlord took a security deposit in the amount of \$475.00. The Tenants did not move into the rental unit.

Preliminary Matters

The Tenants testified that they sent the Landlord the Notice of Hearing package and copies of their documentary evidence on December 21, 2013, by registered mail, to the rental property. The Tenants provided copies of the registered mail receipt and tracking number in evidence.

The Landlord testified that he received the Notice of Hearing documents 3 weeks ago when another tenant brought it to him in Ontario. The Landlord testified that the other tenant works with an airline and travels often. The Landlord stated that there was a death in his family and that he is calling from Ontario. The Landlord stated that he tried to call the Tenants twice to discuss their application, but the Tenants have not returned his calls.

Based on the testimony of both parties, I find that the Landlord was sufficiently served with the Notice of Hearing documents for the purposes of this Application.

The Tenants testified that they gave the Landlord their forwarding address in writing, by registered mail, sent November 20, 2013. The Tenants provided a copy of the registered mail receipt and tracking number in evidence. The Landlord testified that he did not receive the Tenants' forwarding address. A search of the Canada Post Tracking system indicates that the package was returned to the sender on January 21, 2014.

I explained to the Tenants that under these circumstances, I could not find that the Landlord was sufficiently served with their forwarding address in writing, by registered mail. The Tenants asked for an adjournment in order for them to re-serve the Landlord with their forwarding address.

The Landlord stated that he wished to file an application of his own. He gave another address for service of documents.

I made the following finding and Orders:

1. I find that the Landlord received the Tenants' forwarding address in writing on April 8, 2014. I advised the Landlord that the Tenants' forwarding address is the address they gave on their Application for Dispute Resolution.
2. I grant the Landlord leave to file a cross-application. I order that the Landlord, or his agent, file the cross-application within 5 days of receipt of this Interim Decision. The Landlord must serve the Tenants with a copy of his Application for Dispute Resolution and copies of his documentary evidence within 3 days of filing his Application. The Tenants will have 5 days to submit rebuttal evidence. Both parties must also provide copies of such documentary evidence to the Residential Tenancy Branch.
3. I Order that this matter be adjourned to the date and time provided on the enclosed Notice of Reconvened Hearing. The Tenants are not required to formally serve the Landlord with a copy of this Notice.

Conclusion

Copies of a Notice of Reconvened Hearing are provided to both parties. This matter is adjourned to the date and time provided in the enclosed Notice of Reconvened Hearing.

I find that the Landlord received the Tenants' forwarding address on April 8, 2014.

I grant the Landlord leave to file a cross application. I made Orders with respect to service of documents, which are outlined above.

This interim 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: April 08, 2014

Residential Tenancy Branch

