



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTENNIAL MANOR, ACTION PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing dealt with an application by the tenant for an order for the return of the security deposit and for the recovery of the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The style of cause has been amended adding a name of the landlord.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit?

Background and Evidence

The hearing did not have benefit of the claimed written tenancy agreement in this matter. The tenant stated the tenancy began in August 2013. The landlord testified they were reading from the written agreement and the parties subsequently agreed the tenancy began February 01, 2013. The monthly rent as per the agreement was set at \$925.00. Both parties agreed the landlord held a security deposit of \$400.00 in trust. The tenant moved out on October 27, 2013 and acknowledged they had not given the landlord notice of an intention to vacate. The tenant claims they provided a forwarding address on a paper to which they taped their unit keys and placed the 2 items in the landlord's mail slot of the residential property. They testified that their co-tenant witnessed them doing so as well as another individual but did not provide supporting evidence from either one. The tenant further testified that they did not again provide the landlord with a forwarding address after their original method.

The landlord testified that they first learned of the tenant's departure when they saw them moving from the rental unit. They claim receiving the keys in their mail slot without any attachments but later realized the keys were from the applicant. The landlord

testified they first received the tenant's forwarding address when they received the tenant's application for dispute resolution.

Analysis

An applicant bears the burden of proving their claim. Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

In this case, I find that the tenant has not provided sufficient evidence that, on balance of probabilities, the landlord received the tenant's forwarding address in writing as claimed, and is therefore not entitled to the return of double the security deposit.

However, the landlords confirmed in the hearing they now have the tenant's forwarding address in writing and were notified in the hearing that they must, **within 15 days of this hearing**, deal with the deposit pursuant to Section 38 of the Act.

As a result of all the above, the tenant's application **is dismissed**, with leave to reapply for double the amount if the landlord does not return the security deposit within 15 days of this hearing date.

Conclusion

The tenant's application **is dismissed**. The landlord must deal with the security deposit pursuant to Section 38 of the Act within 15 days of this Hearing.

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: May 14, 2014

Residential Tenancy Branch

