



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Polderside Farms Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants for double return of the security deposit and to recover the filing fee from the landlord. All parties attended and gave affirmed testimony.

The matter had been before me on March 11, 2014 which resulted in a Decision and a monetary order in favour of the tenants in the amount of \$1,000.00. The landlord made an application for a review hearing, which was granted by the director in a Decision dated March 31, 2014. This is the review hearing.

Evidence had been provided by both parties with their respective applications, however, it has not been established that either party has received the other party's evidence. Therefore none is considered in this Decision.

Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlords for return of all or part or double the amount of the security deposit?

Background and Evidence

The landlord testified that the tenancy began as a fixed term tenancy in July, 2013 which was to expire in July, 2014 for rent in the amount of \$950.00 per month. The landlord collected a security deposit in the amount of \$425.00.

The landlord further testified that the tenants vacated the rental unit at the end of September, 2013 and the landlord had to accept a lower amount of rent for new tenants. The landlord received the tenants' forwarding address in writing in an email on October 30, 2013. The landlord states the tenants owe the landlord money but the

landlord has not returned any portion of the security deposit and has not made an application for dispute resolution.

The landlord believed that this hearing was an opportunity to have a claim heard and made an oral request to adjourn this hearing to have an opportunity to make an application for dispute resolution and join that hearing with this hearing.

The tenants testified that they do not owe the landlord any money and do not agree to adjourn the hearing and do not agree to join an application from the landlord with this hearing.

Analysis

The landlord's request for an adjournment and to join this application with an unfiled application was denied. The tenants did not consent, and the Rules of Procedure require that an application to join claims must be made 5 days before the hearing date, and the landlord has not yet filed an application to be joined with this application. I find that such an adjournment would prejudice the tenants.

The *Residential Tenancy Act* states that a landlord must return a security deposit in full or make an application for dispute resolution claiming against it within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. If the landlord does neither, the landlord must be ordered to pay the tenant double the amount.

In this case, the landlord testified that the tenants moved out of the rental unit at the end of September, 2013 and the landlord received the tenants' email on October 30, 2013 which contained their forwarding address. The landlord also testified that the security deposit has not been sent to that address and has not been returned to the tenants. The landlord has not made an application for dispute resolution claiming against it.

The *Residential Tenancy Act* states:

Review of director's decision or order

82 (1) Unless the director dismisses or refuses to consider an application for a review under section 81, the director must review the decision or order.

(2) The director may conduct a review

(a) based solely on the record of the original dispute resolution proceeding and the written submissions of the parties, if any,

(b) by reconvening the original hearing, or

(c) by holding a new hearing.

(3) Following the review, the director may confirm, vary or set aside the original decision or order.

In the circumstances, I find that my original Decision and order must be confirmed.

Conclusion

For the reasons set out above, the Decision and order dated March 12, 2014 are hereby confirmed. The order is final and binding and may be enforced.

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: June 03, 2014

Residential Tenancy Branch

