



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kandola Ventures 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 tenant for a monetary order for return of the pet damage deposit or security deposit and to recover the filing fee from the landlords for the cost of the application.

The tenant attended the hearing and gave affirmed testimony, however no one for the landlords attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the tenant.

Issues to be Decided

- Have the landlords been served in accordance with the *Residential Tenancy Act*?
- Has the tenant established a monetary claim as against the landlords for return of the security deposit?

Background and Evidence

The tenant testified that the landlords were served with the hearing package the same day that the Tenant's Application for Dispute Resolution was filed. The tenant gave 2 copies to a lady in the apartment building, who the tenant believes may be a girlfriend of the landlord, and the lady advised that the packages would be delivered to the landlord. The tenant subsequently spoke to the landlord who refused to return the security deposit and stated that a hearing was necessary.

The tenant further testified that the landlord was asked for the security deposit personally, but the tenant did not provide a forwarding address in writing. The tenant no longer resides at the address that the tenant moved to when the tenancy ended.

Analysis

The *Residential Tenancy Act* states that an Application for Dispute Resolution must be served on a landlord in one of the following ways:

- by personally handing it to the landlord;

- by leaving a copy with an agent of the landlord;
- by sending the documents by registered mail to the address at which the landlord carries on business as a landlord.

In this case, the tenant testified that the documents for the named landlord and the landlord company were given to a person to give to the named landlord, but I am not satisfied that the person who was given the documents was an agent of the named landlord or the landlord company. The tenant testified that she believed the person to be a girlfriend of the landlord, but I am not satisfied that the person is an agent of the landlord, nor did the tenant provide any testimony of the name of that person or who that person was.

The *Act* also states that a landlord must return all of a pet damage deposit and security deposit to a tenant within 15 days of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, whichever is later, or make an application for dispute resolution claiming against the deposits within that 15 day period. If a tenant does not provide a forwarding address in writing within a year of the end of the tenancy, the landlord may keep the security deposit and pet damage deposit. In this case, the tenant has not provided the landlord with a forwarding address in writing.

Because I am not satisfied in the circumstances that the landlords have been served in accordance with the *Act*, and the tenant has not provided the landlord with a forwarding address in writing, the tenant's application must be dismissed. I do not, however, find that the tenant should be barred from providing the landlord with a forwarding address in writing and making an application for dispute resolution if the security deposit is not returned, and I dismiss this application with leave to reapply.

Conclusion

For the reasons set out above, the tenant's application is hereby 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: January 22, 2015

Residential Tenancy Branch

