



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMI REALTY INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlords on March 2, 2016 for a Monetary Order for: damage to the rental unit; to keep the Tenants’ security deposit; money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”); and to recover the filing fee from the Tenants.

The Landlord named on the Application, an agent for the Landlord, and the owner of the rental unit appeared for the hearing. The parties confirmed that they had served the Tenants with a copy of the Application and the Notice of Hearing documents by email pursuant to a substituted service decision made by a different Arbitrator on February 18, 2016 under this same file number. The Landlords testified that they had to serve the documents for this hearing by substitution order because the Tenants had not provided their forwarding address in writing after the end of the tenancy.

However, before the hearing commenced, the parties for the Landlord had a brief discussion about pursuing the matter in this hearing and having to pursue a potential monetary order through the small claims court. As a result, the Landlords decided to withdraw their Application.

As the Landlords withdrew their Application and I did not hear any evidence in this matter or make any legal findings, I dismissed the Landlords’ Application with leave to re-apply. I take into consideration Section 38 (1) and 39 of the Act which states:

Return of security deposit and pet damage deposit

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Landlord may retain deposits if forwarding address not provided

39 Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

(a) the landlord may keep the security deposit or the pet damage deposit, or both, and

(b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

Conclusion

The Landlords withdrew their Application. The Landlords are at liberty to re-apply if they receive the Tenants' forwarding address in writing pursuant to the Act. This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: October 20, 2016

Residential Tenancy Branch

