



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the tenants for the return of the security deposit and to recover the filing fee from the landlord for the cost of this application.

Service of the hearing documents, by the tenants to the landlord, was done in accordance with section 89 of the *Act*; served by registered mail on June 24, 2016. Canada Post tracking numbers were provided by the tenants in documentary evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant ST appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Are the tenants entitled to recover the balance of their security deposit?

Background and Evidence

ST testified that this tenancy started on March 01, 2015 for a fixed term tenancy which expired on February 28, 2016, thereafter reverting to a month to month tenancy. The tenants gave written Notice to the landlord and the tenancy was legally ended on May 31, 2016. The tenants paid a monthly rent of \$900.00 per month which was due on the 1st of each month. The tenants paid a security deposit of \$450.00 on at the start of the tenancy.

ST testified that the landlord has withheld part of the security deposit. ST testified that they did not give the landlord permission to keep part of the security deposit and the landlord has withheld \$120.00. The landlord returned \$330.00 by cheque which the tenants picked up from the landlord.

ST testified that they have not provided the landlord with their forwarding address prior to filing this application.

Analysis

Section 38(1) of the *Act* says that a landlord (or the person acting as his agent) has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants' forwarding address in writing to either return the security deposit to the tenants or to make a claim against it by applying for Dispute Resolution.

The tenant attending agreed they have not provided the landlord with a forwarding address in writing. The address on the application is classed as an address for service and not necessarily a forwarding address. Consequently, I have determined that the tenants' application is premature and I therefore dismiss their application with leave to reapply.

As the tenants' application is unsuccessful the tenants must bear the cost of filing this application.

Conclusion

The tenant's application is 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: December 19, 2016

Residential Tenancy Branch