



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested return of double the security deposit.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Issue(s) to be Decided

Is the tenant entitled to return of double the deposit paid?

Background and Evidence

This tenancy commenced on November 28, 2015. The tenant paid a security deposit in the sum of \$462.50. A tenancy agreement was signed. A copy of the agreement was supplied as evidence.

The tenant said the tenancy ended on June 26, 2016. The landlord said they obtained possession of the unit on July 4, 2016.

The tenant said that a written forwarding address was not given to the landlord. The landlord said the tenants' called and gave a forwarding address over the telephone.

The landlord said that the landlords' service address on the application is incorrect; the address should include suite number 212.

The tenant confirmed that the service address for the tenant on the application remains current.

Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

As explained during the hearing, since the tenant has not given the landlord a written forwarding address I determined that the application claiming return of the security deposit was premature. The tenant may have called the landlord to provide an address, but the Act requires the address be given in writing.

During the hearing I ordered, pursuant to section 62(3) of the Act, that the landlord now has the tenants' written forwarding address effective the date of this hearing; February 8, 2017. The tenant confirmed that the service address is included on the tenants' application for dispute resolution. The landlord has 15 days from the date of the hearing to comply with the Act in relation to return of the deposit or claiming against the deposit. It was also explained that there are nuances in the legislation when considering whether a deposit must be returned or may be retained while awaiting a hearing. The landlord is responsible for ensuring compliance with the Act.

The tenant was informed that if the landlord fails to comply with the Act by either returning the deposit within 15 days of the hearing, or by making a claim against the deposit within 15 days the tenant may submit another application requesting return of double the deposit.

Therefore, the application is dismissed with leave to reapply.

Conclusion

The application is dismissed with leave to reapply.

This decision is final and binding and 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: February 08, 2017

Residential Tenancy Branch

