



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This is an application brought by the tenant(s) requesting an order for return of double their security deposit.

Some documentary evidence and written arguments have been submitted prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

The parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicants have established monetary claim against the respondents, and if so in what amount.

Background and Evidence

The parties agree that this tenancy began on July 25, 2015 and that a security deposit of \$425.00 was paid at the beginning of the tenancy.

The parties also agree that the tenant vacated the rental unit on June 30, 2016.

The parties also agree that no move-in inspection report was done at the beginning of the tenancy, and no move-out inspection report was done at the end of the tenancy.

The tenant testified that she has never given the landlord a forwarding address in writing. She further stated that she did not realize it was required, as her mailing address would not be changing.

Analysis

The tenant(s) have applied for the return of double their security deposit; however the tenant(s) did not give the landlord(s) a forwarding address in writing, as required by the Residential Tenancy Act, prior to applying for arbitration.

Therefore, at the time that the tenant(s) applied for dispute resolution, the landlord(s) were under no obligation to return the security deposit, as section 38 of the Residential Tenancy Act states:

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.

This application therefore is premature since the landlord is under no obligation to return the security deposit until the landlord receives a forwarding address in writing.

That being said, section 24(2) of the Residential Tenancy Act states:

24(2) The right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord

(a) does not comply with section 23 (3) [*2 opportunities for inspection*],

(b) having complied with section 23 (3), does not participate on either occasion, or

(c) does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.

In this case, therefore, since the landlord admits that no move-in inspection report was ever done, the landlord does not have the right to claim against the security deposit for damages, and therefore the landlord must return the security deposit, in full, to the tenants within 15 days of receiving a forwarding address in writing, and failure to do so

could, upon application by the tenants, result in an order for double the amount of the security deposit being issued against the landlords.

Conclusion

This application is dismissed in full, 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: March 07, 2017

Residential Tenancy Branch