



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF (Landlord's Application)
 MNSD, MNDC, FF (Tenant's Application)

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the "Application") made by both the Tenant and the Landlord. The Landlord applied for a Monetary Order for damage to the rental unit and to keep the Tenant's security deposit. The Tenant applied for the return of double her security deposit under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement. Both parties also applied to recover the filing fee for the cost of making their Applications. Both Applications were scheduled to be heard together in this hearing.

Preliminary Issues

The Landlord appeared for the hearing and provided affirmed testimony. However, there was no appearance for the Tenant during the 23 minute hearing or any submission of evidence from the Tenant prior to the hearing.

The Landlord explained that he served the Tenant with the Landlord's Application and the Hearing Package by registered mail on January 24, 2017. The Landlord provided the Canada Post tracking number into oral evidence which is detailed on the front page of this Decision. The Canada Post website indicates that the documents were received and signed for by the Tenant on January 26, 2017. Therefore, I find the Landlord served the required documents for this hearing pursuant to Section 89(1) (c) of the Act.

The Landlord confirmed that he had not provided any evidence prior to this hearing to support his claim for damages to the rental unit. The Landlord stated that the evidence was in a different language and he was still in the process of obtaining translated documents which were not available at the time of this hearing. The Landlord testified that he had not been served with the Tenant's forwarding address in writing prior to the Tenant filing her Application on October 20, 2016. The Landlord stated that the address he used to serve the Tenant was the Tenant's place of work; the Tenant used the same

address to file her Application. However, the Landlord expressed his concern that if he were to have to serve the Tenant again with another application, he was unsure whether she was still working at the same address he served her at.

Based on the foregoing evidence before me, I make the following findings. I find that it would be an inconsistent application of the law to conclude that the Tenant has provided the Landlord with a forwarding address in writing if the Tenant only provided the address when the landlord was served with the Application. I find that the legislation contemplates that the forwarding address be provided, in writing, **prior** to the Tenant filing an Application.

Therefore, as the Tenant failed to appear for the hearing to explain the service of her forwarding address, I am only able to conclude that the Tenant's application to recover double her security deposit is premature and is hereby dismissed with leave to re-apply. The Tenant has up to one year from the ending of the tenancy to serve the Landlord with a forwarding address and retain evidence of this. If the Tenant does not, then pursuant to Section 39 of the Act, the Landlord may retain the security deposit indefinitely thereafter.

Based on the lack of evidence provided by the Landlord for damages to the rental unit for this hearing, I allowed the Landlord to withdraw his Application and provide leave to re-apply. If the Landlord receives the Tenant's forwarding address within one year of the ending of the tenancy, then the Landlord must act within the 15 day time limit provided for by the Act. If the Landlord fails to act, the Tenant is provided leave to re-apply for double the return of her security deposit.

As the Landlord did not have a confirmed address for service to the Tenant, he was satisfied with the outcome that both Applications would be dismissed with leave to re-apply until such time the Tenant provides a forwarding address in writing pursuant to the Act. These files are now closed. 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: April 24, 2017

Residential Tenancy Branch