



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The tenants attended the hearing via conference call and provided undisputed affirmed testimony. The landlords did not attend or submit any documentary evidence. The tenants provided undisputed affirmed evidence that the landlords were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on October 21, 2016. The tenants provided the Canada Post Customer Receipt Tracking number in their direct testimony stating that the package was mailed to the address provided by the landlord on the signed tenancy agreement and that the package was received on October 24, 2016. I accept the undisputed affirmed evidence of the tenants and find that the landlords were properly served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for return of the security deposit and recovery of the filing fee?

Background and Evidence

This tenancy began on October 1, 2016 on a fixed term tenancy ending on September 31, 2017 and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated September 22, 2016. The monthly rent was \$2,700.00 and a security deposit of \$1,350.00 was paid on September 22, 2016.

The tenants seek a monetary claim of \$1,350.00 for the return of the security deposit. The tenants provided affirmed testimony that possession of the rental unit was refused as there were issues regarding the condition of the rental premises. The tenants

provided affirmed testimony that notice to vacate the rental unit was given in an email on October 1, 2016. The tenants also stated that their forwarding address in writing was not provided to the landlords for the return of the security deposit.

Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing.

I accept the undisputed affirmed evidence of the tenants and find that the tenants have failed to provide their forwarding address in writing to the landlords for the return of the security deposit as per the Act. As such, I find that the tenants are pre-mature in their application and dismiss it with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

Conclusion

The tenants' 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: April 25, 2017

Residential Tenancy Branch