



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD OLC 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;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

While the tenant WA attended the hearing by way of conference call, the landlord did not. I waited until 2:10 p.m. to enable the landlord to participate in this scheduled hearing for 2:00 p.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant provided sworn, undisputed testimony that he had served the landlord with his application for dispute resolution hearing package ("Application") and evidence by way of registered mail on March 16, 2017 to both of the landlord's mailing addresses. In accordance with sections 88, 89, and 90 of the *Act*, I find that the landlord was deemed served with the Application and evidence on March 21, 2017, five days after mailing.

Preliminary Issue-Tenant's Forwarding Address

This fixed-term tenancy began on October 15, 2015, and ended on October 31, 2016 when the tenants moved out. Monthly rent was set at \$1,100.00. The landlord had collected a security deposit in the amount of \$500.00 at the beginning of the tenancy, and continues to hold this deposit.

The tenant testified that he had provided the landlord with their new forwarding address by text message on October 31, 2016, requesting that their security deposit be returned.

Section 38 (1) of the *Act* states that within 15 days of the latter of receiving the tenant's forwarding address in writing, and the date the tenant moves out, the landlord must either return the tenant's security deposit, or make an application for dispute resolution against that deposit.

The tenants had applied for the return of their security deposit, but did not provide sufficient evidence to support that the landlord was provided with their forwarding address in writing, as required by section 38 of the *Act*. The landlord did not attend the hearing, and the tenants did not provide any witness testimony or any kind of confirmation that the landlord had received the forwarding address from the tenants. Accordingly, I dismiss the tenants' application with leave to reapply. The tenants must provide their forwarding address to the landlord in writing, and the landlord must, within 15 days of the receipt of that address, either return the tenants' security deposit, or make an application for dispute resolution. If the landlord fails to comply with section 38 of the *Act*, the tenants may reapply. Liberty to reapply is not an extension of any applicable limitation period.

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: June 2, 2017

Residential Tenancy Branch