



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Landrock Excavating & Landscaping Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened in response to an application made December 2, 2016 by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord did not attend the hearing. I accept the Tenant’s oral evidence supported by the oral provision of a postal tracking number that the Landlord was served with the application for dispute resolution and notice of hearing (the “Materials”) by registered mail on December 6, 2016 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlord is deemed to have received the Materials on December 11, 2016. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to return of double the security deposit?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started in July 2013 and ended on December 15, 2015. Rent of \$1,000.00 was payable each month. At the outset of the tenancy the Landlord collected \$500.00 as a security deposit. The Tenant provided its forwarding address to the Landlord in a text dated December 20, 2015. The Landlord responded by text on the same date telling the Tenant to “f---off”. The

Parties communicated by text throughout the tenancy. The Tenant provided no documentary evidence of the texts although given opportunity to do so following the hearing.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Section 39 of the Act provides that if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

- (a) the landlord may keep the security deposit or the pet damage deposit, or both, and
- (b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

As the Tenant did not provide the supporting evidence of texts by the date of the Decision, I dismiss the application with leave to reapply should the Tenant have supported evidence that the forwarding address was provided to the Landlord in writing prior to December 15, 2016. Leave to reapply is not an extension of the limitation period for the provision of a forwarding address.

Conclusion

The 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: June 08, 2017

Residential Tenancy Branch