



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, received at the Residential Tenancy Branch on April 10, 2017 (the "Application"). The Tenants applied for an order that the Landlords return all or part of the security deposit or pet damage deposit, pursuant to the *Residential Tenancy Act* (the "Act").

The Tenants attended the hearing in person, as did the Landlords. All parties in attendance provided a solemn affirmation.

The Tenants testified that the Application package was served on the Landlord by registered mail on April 19, 2017. The Landlords acknowledged receipt. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Tenants' Application package is deemed to have been received by the Landlords on April 24, 2017.

The Tenants also submitted further documentary evidence, which was received at the Residential Tenancy Branch on September 1, 2017. The Tenants confirmed it was not served on the Landlords. As the additional evidence was not received at the Residential Tenancy Branch or served on the Landlords in accordance with Rule of Procedure 3.14, it has not been considered in making the Decision.

The Landlords submitted documentary evidence in response to the Application. The Landlords testified it was served on the Tenants by registered mail and was signed-for on September 1, 2017. The Tenants acknowledged receipt. I find the Tenants received the Landlords' documentary evidence on September 1, 2017.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Are the Tenants entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence by the Landlord. It confirmed that a fixed-term tenancy was in effect from June 1 to December 31, 2016. However, the tenancy ended when the Tenants vacated the rental unit on November 30, 2016. Rent in the amount of \$2,100.00 per month was due on or before the first day of each month. The Tenants paid a security deposit in the amount of \$1,500.00, which the Landlords hold.

The Tenants testified they provided the Landlords with their forwarding address in writing during a move out inspection of the rental unit with an individual named G. The Landlords expressed that they have not received the Tenants' forwarding address in writing

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

A landlord's obligation to return the security deposit to a tenant is triggered on receipt of a tenant's forwarding address in writing. Section 38 of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

In this case, the Tenants testified that their forwarding address was provided to the Landlords' agent at the end of the tenancy. They provided insufficient documentary evidence in support of this assertion, and the Landlords denied receipt.

In the face of the parties' contradictory evidence, and pursuant to section 72(2)(b) of the *Act*, I find the Landlords were duly served with and received the Tenants' forwarding address in writing on the date of this Decision. The forwarding address is the address provided by the Tenants on the Application. The Landlords are ordered to deal with the security deposit held in accordance with section 38 of the *Act*. That is, within 15 days after the date of this Decision, the Landlords must either return the security deposit to the Tenants or make a claim against the security deposit by filing an application for dispute resolution. Failure to do so may result in the Tenants becoming entitled to receive double the amount of the security deposit.

The Tenants' Application is dismissed with leave to reapply if the Landlord does not deal with the security deposit in accordance with section 38 of the *Act*.

Conclusion

The Tenants' Application is dismissed with leave to reapply if the Landlord does not deal with the security deposit in accordance with section 38 of the *Act*.

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: September 13, 2017

Residential Tenancy Branch