



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 tenant's 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.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord confirmed receipt of the tenant's dispute resolution application ('Application'). In accordance with section 89 of the *Act*, I find that the landlord was duly served with the Application. All parties confirmed receipt of each other's evidentiary materials.

Preliminary Issue-Tenant's Forwarding Address

This fixed-term tenancy began on October 1, 2016 and ended on November 1, 2016 when the tenant moved out. Monthly rent was set at \$2,500.00. The landlord had collected a security deposit in the amount of \$1,250.00 and pet damage deposit in the amount of \$750.00 at the beginning of the tenancy, and continues to hold these deposits.

The tenant testified that she had provided the landlord with an email address on October 17, 2016, requesting her deposits be returned by etransfer. The tenant testified in the hearing that she did not provide an actual forwarding address other than the email address. The tenant included this request in her evidence.

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.

RTB Policy Guideline 17, paragraph 10 establishes the following:

The landlord has fifteen days from the later of the day the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to file an arbitration application claiming against the deposit, or return the deposit plus interest to the tenant.

The tenant had applied for the return of her security and pet damage deposits, but the tenant indicated in the hearing that she had never provided the landlord with her forwarding address in writing. Accordingly, the tenant's application is dismissed with leave to reapply.

As both parties were present in the hearing, the tenant's forwarding address was confirmed during the hearing, as noted on the cover page of this decision. I indicated to both parties that today's date, October 12, 2017, serves as the date that the landlord was served with the tenant's forwarding address, and that that the deposits must be dealt with 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: October 12, 2017

Residential Tenancy Branch