



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened in response to an application 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's Agent and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

The Agent states that the Landlords were unexpectedly called out of country a few days prior to this hearing date and the Agent seeks an adjournment. The Agent states that there is no phone service where the Landlords went. The Agent does not provide any other details of the absence but states that he is uncomfortable proceeding without the presence of the Landlord and that he does have the Landlord's file in front of him. The Agent confirms that he has the information of the details of the tenancy start and end date and the amount of security and pet deposit paid. The Tenant states he does not know if the Landlord was given the Tenant's forwarding address.

Rule 7.8 of the Residential Tenancy Branch (the “RTB”) Rules of Procedure provides that if the circumstances are determined to warrant an adjournment, an adjournment may be granted. As the determination of this dispute is based on very few facts and as it appears that the Agent has knowledge of those facts I find that there are no circumstances that warrant an adjournment. Further I find it difficult to accept that the

Landlord's travelled somewhere without internet or phone service and I note that the Agent declined to state where the Landlords actually went. For these reasons I decline to grant the adjournment.

Issue(s) to be Decided

Has the Tenant provided its forwarding address to the Landlord?

Background and Evidence

The following are agreed facts: The tenancy started on February 1, 2017 for a fixed term to end June 30, 2017 and ended on June 2, 2017 based on the Landlord's letter informing the Tenants that the tenancy had to end by June 3, 2017. Rent of \$1,100.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected a security deposit of \$550.00 and a pet deposit of \$550.00.

The Tenant does not know if the Landlord was provided with a forwarding address. The Tenant claims return of the security and pet deposit.

The Tenant confirms that its address contained in the application is its forwarding address. The Agent confirms that it has the address in the application.

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. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As there is no evidence that the Tenants provided its forwarding address to the Landlord prior to making an application for its return but as the Landlord now has the Tenant's confirmed forwarding address on the Tenant's application I find that, on the date of this hearing, the Landlord has received the Tenant's forwarding address in writing. The Landlord

now has 15 days or until December 8, 2017 to deal with the security and pet deposit as required under the Act. As the Tenant did not provide the forwarding address prior to making its application I dismiss the claim with leave to reapply should the Landlord fail to deal with the deposits as required.

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: November 23, 2017

Residential Tenancy Branch