



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This is an application by the tenants filed under the Residential Tenancy Act (the “Act”) for a monetary order for return of double the security deposit (the “Deposit”), and the pet damage deposit (the “Deposits”) and the filing fee for the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on July 28, 2017, the landlord did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the landlord has been duly served in accordance with the Act.

The tenant appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Are the tenants entitled to a monetary order for return of double the Deposits?

Background and Evidence

The tenancy began in 2014. Rent in the amount of \$1,250.00 was payable on the first of each month. A security deposit of \$625.00 and a pet damage deposit of \$625.00 were paid by the tenants.

The tenant testified that they vacated the premises on June 30, 2017. The tenant stated that they provided the landlord with a written notice of the forwarding address on June 24, 2017, by text message.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case the evidence of the tenant was that they served their forwarding address by text message.

How to give or serve documents generally

88 All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;

(i) as ordered by the director under section 71

(1) [*director's orders: delivery and service of documents*];

(j) by any other means of service prescribed in the regulations.

While I accept the tenants provided their address in writing, I find the tenants did not serve their forwarding address in a method approved of under the Act. Text message is not an approved method of service. I find the tenants' application is premature. Therefore, I dismiss the tenants' application with leave to reapply.

The landlord is cautioned should they receive the tenants forwarding address, they must comply with section 38 of the Act. Failing to do so, may result in the doubling provision as set out in section 38(6) of the Act.

Conclusion

The tenant's' application for return of double the Deposits 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: January 18, 2018

Residential Tenancy Branch