



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. The participatory hearing was held, by teleconference, on March 21, 2018. The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for the return of the security deposit

One of the tenants, A.W., attended the hearing. However, the Landlord did not. A.W. stated that she served the Notice of Hearing and her application package to the Landlord by registered mail on September 19, 2017. Pursuant to section 90 of the Act, I find the Landlord received this package 5 days after it was mailed, on September 24, 2017.

The Tenant was provided the 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.

Issue(s) to be Decided

1. 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

One of the Tenants, A.W., stated that the tenancy ended on April 1, 2017, which was the day they vacated the rental unit. She stated that the Landlord still holds their security deposit in the amount of \$550.00.

She stated that the other tenant, N.M., went to the Landlord's residence sometime in the last two weeks of March 2017, and verbally provided the Landlord's girlfriend (who apparently resided there) with their forwarding address. A.W. stated that the Landlord's girlfriend said she would relay their forwarding address to the Landlord. A.W. stated that the Landlord is often not around, so it is difficult to get a hold of him.

A.W. stated that she believes the Landlord did not want to give back the security deposit because he was not satisfied with the condition of the rental unit.

Analysis

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

Section 38(1) 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, I find the Tenants have not provided their forwarding address in writing to the Landlord. I am not satisfied that giving the forwarding address to the Landlord's girlfriend, verbally, is sufficient. Since the forwarding address was not properly provided from the Tenants to the Landlord, in writing, I dismiss the Tenant's application on this matter, with leave to reapply.

I find it important to note the following portion of the *Act*:

Landlord may retain deposits if forwarding address not provided

39 Despite any other provision of this Act, 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.

The Tenants remain at liberty to provide their forwarding address in writing to the Landlord. However, since the tenancy ended on April 1, 2017, the Tenants should keep in mind the time limits for providing the forwarding address, as specified above.

Since the Tenants were not successful with their application, I decline to award them the cost of the filing fee they incurred to file this application.

Conclusion

The Tenants' application has been 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: March 23, 2018

Residential Tenancy Branch