



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This decision pertains to the Tenants' application for dispute resolution made on April 14, 2018, under the *Residential Tenancy Act* (the "Act"). The Tenants seek a return of their security and pet damage deposits, and a monetary order for the filing fee.

The Tenants and the Landlord attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The Landlord confirmed receiving the Notice of Dispute Resolution Proceeding package (the "Notice") in mid-April 2018 by way of Canada Post registered mail.

I have only reviewed and considered oral and documentary evidence pertaining to the preliminary matter of this application.

Preliminary Matter: Landlord Receiving Tenants' Forwarding Address

Section 38 of the Act deals with the return of security and pet damage deposits. Section 38 (1) requires that a landlord return a security or pet damage deposit within 15 days of receiving a tenant's forwarding address, or, that the landlord make an application for dispute resolution claiming against the security or pet damage deposit within 15 days of receiving the forwarding address.

The Tenants testified that they made several, unsuccessful attempts at providing the Landlord with their forwarding address.

The Tenants testified they moved out of the rental unit on or about July 1, 2017. On their last day, they left behind a piece of paper with their forwarding address. They left the paper on the island in the middle of the kitchen.

On July 13, 2017, the Tenants sent their forwarding address to the Landlord by way of e-mail. They did not receive a response to the e-mail.

On March 6, 2018, the Tenants sent two registered letters (containing the Tenants' forwarding address) to each of the addresses at which they believed the Landlord resided, or had access to mail. One letter was mailed to the rental unit, while another letter was mailed to a residential address. Both letters were returned by Canada Post as being "unclaimed."

The Landlord testified that they sold the rental unit in September 2017 and therefore had no means to collect mail from that address. The Landlord further testified that they lived at the residential address for only a short time, left in December 2017, and thus had no means to collect mail from that address.

The Landlord acknowledged that they first received the Tenants' forwarding address when the Notice came by registered mail.

I confirmed with the Tenants that their address, as provided on the Notice, was their current and correct forwarding address. I confirmed with the Landlord that they now had the Tenants' forwarding address as provided on the Notice; the Landlord repeated the address for me as confirmation.

Pursuant section 71 (2) (b) of the Act, I explained to the Landlord that they were now served with the forwarding address, and must deal with the deposits pursuant to section 38 of the Act. Further, I informed the Landlord that the date of the hearing, June 1, 2018, is the ordered date that the Landlord received the Tenants' forwarding address.

I dismiss the Tenants' application with leave to reapply.
I have not made any findings of fact or law with respect to the issues of the application.

Conclusion

I dismiss the Tenants' application 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: June 5, 2018

Residential Tenancy Branch