



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, RPP, FFT

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act"). The tenant applied for the return of double their security deposit, and to recover the cost of the filing fee.

The tenant appeared at the teleconference hearing and gave affirmed testimony. The hearing process was explained to the tenant and an opportunity to ask questions was provided to the tenant during the hearing. During the hearing the tenant presented their evidence. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the landlord did not attend the teleconference hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), the application and documentary evidence were considered. The tenant provided affirmed testimony that the Notice of Hearing, and application were served on the landlord by registered mail and provided a registered tracking number verbally during the hearing which has been included on the cover page of this decision for ease of reference. According to the Canada Post online registered mail tracking website information, the landlord signed for and accepted the registered mail package on December 21, 2017. As a result, I find the landlord was served on December 21, 2017 which is the date the landlord signed for and accepted the registered mail package from the tenant.

Issues to be Decided

- Is this application premature?
- If yes, should this application be dismissed with leave to reapply?

Background and Evidence

The tenant did not provide a copy of the tenancy agreement or written forwarding address in evidence. The tenant testified that a fixed-term tenancy began with the prior owner of the residence on May 1, 2016 and reverted to a month to month tenancy after May 1, 2017. The tenant stated that she vacated the rental unit on October 1, 2017 after her new landlord (the landlord named in this application) served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice").

The tenant stated that she paid an \$800.00 security deposit at the start of the tenancy which the landlord continues to hold. The tenant affirmed that monthly rent during the tenancy was \$1,600.00 per month and was due on the first day of each month.

The tenant was unable to state when she provided her written forwarding address, indicating first that it may have been by text or email however the tenant stated she was unable to find a text or email in her records during the hearing and did not submit a copy of a written forwarding address for my consideration.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

I find that the tenant's application is premature, due to the fact that the tenant was unable to provide a copy of her written forwarding address for my consideration and was unable to recall the date that she served the landlord with her written forwarding address. As a result, and in accordance with Residential Tenancy Branch Practice Directive 2015-01 I order that the tenant must serve the landlord with her written forwarding address by registered mail.

Once received or deemed received, the landlord must deal with the tenant's security deposit within 15 days in accordance with section 38 of the *Act*.

As the tenant's application is premature, I do not grant the tenant the recovery of the filing fee.

I grant the tenant leave to reapply for double the return of their security deposit should the landlord fail to deal with the tenant's full \$800.00 security deposit in accordance with section 38 of the *Act*.

The tenant is encouraged to include a request for any personal property in the registered mail letter as well before applying for the return of her personal property.

Conclusion

The tenant's application is premature and is therefore dismissed, with leave to reapply.

The tenant has been ordered to serve her written forwarding address by registered mail to the landlord. The landlord must deal with the tenant's security deposit within 15 days of being served or deemed served with the written forwarding address in accordance with section 38 of the *Act*.

As the tenant's application is premature, I do not grant the tenant the recovery of the filing fee.

The tenant is granted leave to reapply for double the return of their security deposit should the landlord fail to deal with the tenant's full \$800.00 security deposit in accordance with the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: July 17, 2018

Residential Tenancy Branch