



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MARK ALAN LTD
and [tenant name suppressed to protect privacy]

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:

- a return of the security deposit pursuant to section 38 of the *Act*; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72 of the *Act*.

The tenant, and the landlord, participated in the conference call hearing. The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord was represented at the hearing by agent A.W. (the “landlord”).

The landlord confirmed receipt of the tenant’s application for dispute and evidentiary package by Canada Post Registered Mail. The landlord is found to have been duly served with these documents in accordance with the *Act*.

Issue(s) to be Decided

Can the tenant recover the security deposit?

Is the tenant entitled to a return of the filing fee?

Background and Evidence

Testimony provided at the hearing by both parties confirmed the tenant began occupying the rental unit in 2010. Rent at the conclusion of the tenancy was \$1,825.00 per month, while a security deposit of \$850.00 paid at the outset of the tenancy continues to be held by the landlord. The tenant vacated the property on August 31, 2017.

The tenant confirmed that he did not provide the landlord with his forwarding address in writing, but argued that he should be entitled to a return of the security deposit after he sent an email to the landlord seeking it be sent to him by e-mail interact transfer. The landlord confirmed he had received an email of this nature and confirmed that no forwarding address was ever provided to him.

Analysis

Residential Tenancy Practice Directive 2015-01 states as follows, “This practice directive deals with the situation where the Tenant’s forwarding address was only provided to the Landlord in the Application for Dispute Resolution document.”

It continues by stating –

If the landlord attends the hearing and testifies they did not have a forwarding address for the Tenant prior to the hearing the Arbitrator should:

- Explain to the landlord that they now have been served with the forwarding address and must deal with the deposit pursuant to section 38 of the *Act*
- Inform the landlord that the date of the hearing will become the ordered date the landlord received the tenant’s forwarding address.

The arbitrator would then dismiss the tenant’s application with leave to reapply. The tenant could re-apply if the landlord does not claim against or return the deposit within 15 days of the hearing date.

It therefore follows, that the landlord has received the tenant’s address for service as it appears on the application for dispute.

I dismiss the tenant’s application for a return of the security deposit with leave to reapply. The tenant must bear the cost of his own filing fee.

Conclusion

The tenant's application for a return of the security deposit 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: August 20, 2018

Residential Tenancy Branch