



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, FFT

Introduction

This is an Application for Dispute Resolution (the “Application”) brought by the Tenant requesting a return of the security and pet damage deposits. The Tenant also requests an order for payment of the filing fee.

The Tenant, DB, appeared for the scheduled hearing on behalf of the Tenants. The Landlord did not attend this hearing, although I left the teleconference hearing connection open for 10 minutes in order to enable the Landlord to call into this teleconference hearing scheduled for 1:30 p.m.

The Tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Tenant and I were the only ones who had called into this teleconference.

The Tenant explained that she was unable to get in contact with the Landlord, who she believes was evading her after the tenancy ended. She said that the tenancy agreement did not provide an address for service for the Landlord. The Tenant was told by him at one point to deliver the keys to his mother’s residence, where she understood he was living at that time. She indicated that he may have lived at another address at some point as well. The Tenants served the Notice of Hearing on March 28, 2018 by leaving it in the mailbox at the home of the Landlord’s mother.

Although all evidence was taken into consideration at the hearing, only that which was relevant to the issues is considered and discussed in this decision.

Issues to be Decided

Are the Tenants entitled to a monetary order for payment of compensation and damages, pursuant to section 67 of the Residential Tenancy Act ("Act")?

Are the Tenants entitled to a doubling and return of the security and pet deposits, pursuant to section 38 of the Act?

Are the Tenants entitled to payment of the filing fee of \$100.00 pursuant to section 72 of the Act?

Background and Evidence

The tenancy began December 1, 2017 and ended February 1, 2018. It was a month-to-month tenancy with monthly rent of \$1,200.00, payable on the first of each month. A security deposit of \$600.00 and a pet deposit of \$250.00 was paid. A copy of the tenancy agreement and receipt for the deposits was submitted into evidence. The Tenants moved out February 1st and gave the Landlord their forwarding address in writing on February 13, 2018; a photograph of that letter was submitted into evidence. The Tenants applied for dispute resolution on March 7, 2018, claiming the return of double their security deposit.

The Tenant was unclear in her testimony about specific dates, but recalls receiving an e-transfer payment of \$850.00 from the Landlord at some point in time. She believes it was after he was served with the Notice of the Hearing on March 28, 2018. The Tenant was given leave to file bank statements to confirm the date the money was received from the Landlord, within 24 hours of the date of the hearing. Subsequent evidence filed shows that the Tenants received an e-transfer of \$850.00 on March 8, 2018.

The Tenant states that the Landlord promised to forward their security and pet deposits, but failed to do so within 15 days as required under the Act; they are claiming double the amount of the deposits in the amount of \$1,700.00, less the \$850.00 they received after filing this Application; the Tenants also request the \$100.00 filing fee.

Analysis

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

The Tenant had stated that the tenancy agreement did not provide an address for service for the Landlord. I have reviewed that document and see that an address is in fact noted on the agreement as the address for service of the Landlord. I further find that the Landlord did not provide an alternate address for service, and that his instructions to have the Tenants drop the keys at his mother's residence is not considered to be notice of a new address for service of legal documents or notification of his new residence.

I am not satisfied that this Landlord had notice of this hearing. Accordingly, I am dismissing this Application, with leave to re-apply. Should the Tenants apply for the additional doubling of the security deposit, the service provisions of section 89 will apply:

89 (1) *An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given 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 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 registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

Unless the Tenants receive notification from the Landlord of an alternate address for service of documents or his ordinary residence, the address provided in their tenancy agreement signed on November 15, 2017 will suffice.

Conclusion

The Tenants' Application is dismissed with leave to re-apply.

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: October 09, 2018

Residential Tenancy Branch