



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

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 their security deposit.

The tenant and the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties presented his evidence. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

Neither party raised any concerns regarding the service of documentary evidence.

Issues to be Decided

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

Background and Evidence

The parties agreed that a \$750.00 security deposit was paid by the tenants in 2016. The tenancy began on September 1, 2016. The tenant agreed with the landlord's testimony that he was not served with the tenant's forwarding address until being served with the tenant's application which contained the tenant's service address.

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 there is no evidence before me that the tenant served their written forwarding address as required by section 38 of the *Act*. I have also considered that there is no dispute that the landlord only received the tenant's new address after being served with the tenant's application. As a result, and in accordance with Residential Tenancy Branch Practice Directive 2015-01, I find that the landlord has been served with the tenant's written forwarding address of the date of this hearing, January 18, 2019.

The landlord must deal with the tenant's security deposit within 15 days of this date, January 18, 2019, in accordance with section 38 of the *Act*.

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 security deposit in accordance with the *Act*.

Conclusion

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

I find that the landlord has been served with the tenant's written forwarding address as of the date of this hearing, January 18, 2019. The tenant's written forwarding address has also been included on the cover page of this decision for ease of reference. The landlord must deal with the tenant's security deposit within 15 days of January 18, 2019 in accordance with section 38 of the *Act*.

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 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: January 18, 2019

Residential Tenancy Branch