



Dispute Resolution Services

Page: 1

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 and pet damage deposit.

The tenant, a support person for the tenant, and the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlord and tenant presented their evidence. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

The tenant confirmed that they received the landlord's documentary evidence prior to the hearing and that they had the opportunity to review that evidence. The landlord testified that they were not served with any supporting documentary evidence from the tenant. The tenant confirmed that the tenant did not serve the landlord with documentary evidence. As a result, the tenant requested to withdraw their application with leave to reapply. The landlord objected to the tenant being given another chance to reapply and was prepared to proceed. As a result, the hearing continued without consideration of the tenant's documentary evidence, which I have excluded as I find it was not served in accordance with the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules").

Preliminary and Procedural Matter

The parties confirmed their email addresses at the outset of the hearing. The parties also confirmed their understanding that the decision would be emailed to both parties and that any applicable orders would be emailed to the appropriate party.

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 \$1,200.00 security deposit and \$1,200.00 pet damage deposit were paid by the tenant in March 2018. The tenant affirmed that she texted her written forwarding address to the landlord but could not recall the date that she texted the landlord. The landlord affirmed that she did not receive a text from the tenant with the written forwarding address and only became aware of the tenant's forwarding address by way of the tenant's application.

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 could not recall the date that she texted the landlord with her forwarding address and failed to submit a copy of the tenant's forwarding address. Furthermore, I accept the landlord's testimony that the landlord has not received a text with the tenant's written forwarding address as I have no evidence of that forwarding address before me. As a result, and in accordance with RTB 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 28, 2019.

The landlord must deal with the tenant's security deposit within 15 days of January 28, 2019, 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 both deposits should the landlord fail to deal with the tenant's \$1,200.00 security deposit and \$1,200.00 pet damage 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 of the date of this hearing, January 28, 2019, and has been included on the cover page of this decision for ease of reference. The landlord must deal with the tenants' security deposit within 15 days of June 28, 2018 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 both deposits should the landlord fail to deal with the tenant's \$1,200.00 security deposit and \$1,200.00 pet damage 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 29, 2019

Residential Tenancy Branch