



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) for monetary compensation and for the return of the security deposit.

The Landlord and Tenant were present for the initial hearing on January 7, 2018. This hearing was adjourned due to a service issue. The reconvened hearing took place on February 21, 2019. The Landlord and a family member of the Landlord (the “Landlord”) attended the reconvened hearing, while the Tenant did not call in during the approximately 17-minute duration of the hearing.

The Landlord and the Landlord’s family member were affirmed to be truthful in their testimony and confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Tenant’s evidence. The Landlord did not submit any evidence prior to the hearing.

Issues to be Decided

Is the Tenant entitled to monetary compensation?

Is the Tenant entitled to the return of the security deposit?

Background and Evidence

The Landlord provided undisputed testimony regarding the tenancy. They stated that the Tenant signed a tenancy agreement for the rental unit on or around July 27, 2018 to

move in on August 1, 2018. However, they stated that a day or two after signing the tenancy agreement the Tenant advised them that she was no longer able to move in.

The Landlord stated that the Tenant did not pay the first month's rent but paid \$700.00 for a security deposit. They stated that they have not returned the security deposit to her. The Landlord provided testimony that they have not received a forwarding address in writing from the Tenant.

Analysis

As stated by rule 7.3 of the *Residential Tenancy Branch Rules of Procedure*, when a party does not attend the hearing, the application may be dismissed, or the hearing may continue in the absence of the party.

Due to the absence of the Tenant at a hearing based on their Application for Dispute Resolution, the Tenant's application for monetary compensation is dismissed, without leave to reapply.

The return of the security deposit was addressed at the hearing with the Landlord. Section 38(1) of the *Act* states the following:

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

I accept the testimony of the Landlord that the tenancy ended shortly after the tenancy agreement was signed on July 27, 2018. However, they also stated that they have not received the Tenant's forwarding address in writing.

As such, I find that the Tenant is not entitled to the return of the security deposit if her forwarding address has not yet been provided. Instead, the Tenant must provide her

forwarding address to the Landlord in writing and the Landlord has 15 days from receipt of the address to comply with Section 38(1) of the *Act*. Should the Landlord not comply with Section 38(1), the Tenant may find cause to apply for the return of double the deposit pursuant to Section 38(6) of the *Act*. Accordingly, the Tenant's application for the return of the security deposit is dismissed, with leave to reapply.

Conclusion

The Tenant's application for monetary compensation is dismissed, without leave to reapply.

The Tenant's application for the 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: February 22, 2019

Residential Tenancy Branch