



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for return of double the security deposit and pet damage deposit (the “Deposits”) and to recover the filing fee from the landlord.

Both parties appeared, gave testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The landlord confirmed receipt of all evidence submissions from the tenant. The tenant did not receive the evidence of the landlord.

I have reviewed the evidence of the landlord; I find it not prejudicial to the tenant if the evidence is considered. As the evidence is a text message sent to the tenant and banking information of the landlord.

Issue to be Decided

Is the tenant entitled to double Deposits?

Background and Evidence

The tenancy began on December 2017. Rent in the amount of \$1,695.00 was payable on the first of each month. A security deposit of \$845.00 and a pet damage deposit of \$200.00 were paid by the tenant.

The tenant testified that they provided the landlord with their forwarding address by text message on November 12, 2018. The tenant stated that they did not send it by a method approved of by the Act, as another occupant told them that the landlord had moved. The tenant stated that they should be entitled to recover the cost they spent on a title search in the attempt to find a forwarding address of the landlord.

The landlord testified that they had the tenant's forwarding address. The landlord stated that they sent the tenant's Deposits back by etransfer; however, it was never accepted. The landlord stated that they sent the tenant a text message; however, the tenant did not respond.

The landlord testified that their service address in the tenancy agreement is the correct. The landlord stated that the tenant also agreed that they could keep \$150.00 from the Deposits.

The tenant argued that because they filed an application that they are no longer agreeable to the landlord keeping the amount of \$150.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I accept the tenant sent their forwarding address on November 12, 2018, sent by text message. However, the Act does not recognize text message as a method of service.

The tenant had the landlord's address for service, as it is written on their tenancy agreement that was filed in evidence; that address for service has not changed. The tenant was required to provide a copy of their forwarding address to the landlord's address for service and to be sent in a method approved of by the Act, under section 88 of the Act.

Further, I find the landlord is not responsible for the additional cost that the tenant paid when they tried to find an alternative service address for the landlord. This was only obtained due to another occupant providing incorrect information, not from the landlord evading service. Therefore, I dismiss this portion of the tenant's claim.

Furthermore, the landlord did attempt to return the Deposits, by email transfer, within the required time limit, which was not successful; as it appears the email address is incorrect due to a spelling error in the tenant's last name. The Act does not recognize this method of service either.

As neither party has complied with the Act, I find it would be unfair to apply a penalty provision to the landlord, when the tenant did not comply with the Act either. The forwarding address was not sent to the landlord's service address, nor was it sent by an approved method of service. Both parties must be held to the same standard when applying penalties under the Act. Therefore, I find the tenant is not entitled to double the Deposits.

Although the tenant indicated that they are withdrawing their consent for the landlord to keep \$150.00 from the Deposits. I find once an agreement is made between the parties that agreement is binding on the parties.

Therefore, I find the tenant is entitled to the return of the Deposits in the amount of **\$1,045.00**, less the amount of \$150.00, for a total balance due of **\$845.00**.

I Order the landlord return the above amount to the tenant within the next two-business day. The tenant provided a new address for service at the hearing, which I have noted on the covering page of this decision. Should the landlord fail to comply with my Order, I grant the tenant a formal monetary order in the above noted amount, pursuant to section 67 of the Act.

The tenant should note that when they make an application for dispute resolution they are required to provide the Residential Tenancy Branch and the Respondent with any change of service address by amending their application.

As the tenant did not comply with the Act, I decline to award the tenant the cost of their filing fee.

Conclusion

The tenant is granted a monetary order in the above amount. The Order is only enforceable if the landlord does not comply with my Order.

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: March 27, 2019

Residential Tenancy Branch