



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding JAMEH HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFT MNSD

Introduction

This hearing was scheduled to convene at 1:30 p.m. this date by way of conference call concerning an application made by the tenant seeking a monetary order for return of the security deposit or pet damage deposit and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing and gave affirmed testimony, however the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the landlord joined the call. The tenant testified that the Tenant's Application for Dispute Resolution and notice of this hearing (the Hearing Package) was served to the landlord company by serving a person at the office of the landlord on March 25, 2019. Given that the landlord has provided evidentiary material, and given the oral testimony of the tenant, I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Has the tenant established a monetary claim as against the landlord for return of all or part of the security deposit?

Background and Evidence

The tenant testified that this fixed-term tenancy began in 2017 and was renewed for a term commencing on July 1, 2018 and expiring on June 30, 2019 at which time the tenant was to vacate the rental unit. Rent in the amount of \$6,150.00 was payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$3,075.00 and no pet damage deposit was collected. The rental unit is a single family dwelling.

The tenant further testified that he actually vacated the rental unit on February 15, 2019 having given notice to the landlord to vacate, which was accepted by the landlord and the post-dated rental cheques for March through June, 2019 were returned to the tenant.

The landlord also returned to the tenant, at the tenant's current address, the sum of \$1,825.00 of the security deposit with a letter dated March 7, 2019 indicating that the landlord was retaining \$1,200.00.

The tenant did not provide the landlord with a forwarding address in writing, except perhaps in an email, but none has been provided for this hearing. The tenant also provided a forwarding address in this Application for Dispute Resolution.

The landlord has not served the tenant with an Application for Dispute Resolution claiming against the security deposit or any portion of the security deposit, and the tenant did not consent that the landlord retain any portion of it.

Analysis

Section 39 of the *Residential Tenancy Act* establishes that it is the tenant's obligation to provide the landlord with a forwarding address in writing for return of the security deposit and/or pet damage deposit within a year of the end of the tenancy. If that does not occur, the landlord may keep the deposit(s) and the tenant's right to the deposit(s) is extinguished. However, a forwarding address only provided by the tenant on the Application for Dispute Resolution form does not meet the legislative requirement.

In this case, I am satisfied that the tenancy ended on February 15, 2019 and the landlord had a forwarding address of the tenant to send a portion of the security deposit to as at March 7, 2019, but I have no evidence of when the landlord may have received the forwarding address or if it was received in writing. Since the tenant has not established date that the landlord received the forwarding address in writing, other than in the Tenant's Application for Dispute Resolution, I dismiss the tenant's application for recovery of the balance of the security deposit, with leave to reapply. The tenant may still provide a forwarding address in writing to the landlord, and the landlord will have 15 days to either return the balance of the security deposit to the tenant or make an Application for Dispute Resolution claiming against it.

Since the tenant has not been successful with the application, the tenant is not entitled to recovery of the filing fee.

Conclusion

For the reasons set out above, the tenant's application for a monetary order for return of the security deposit is hereby 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: May 07, 2019

Residential Tenancy Branch