



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This is an application by the tenant(s) filed under the Residential Tenancy Act (the “Act”) for a monetary order for return of double the security deposit (the “Deposit”), and the filing fee for the claim.

Both parties appeared, gave affirmed 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 parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Is the tenant entitled to a monetary order for return of double the Deposit?

Background and Evidence

The tenancy began on October 1, 2018. Rent in the amount of \$1,200.00 was payable on the first of each month. A security deposit of \$600.00 was paid by the tenant. The tenancy ended on October 31, 2018.

The tenant testified that they gave the landlord their forwarding address in October 2018. The tenant testified that they also sent the landlord their forwarding address by text message.

Filed in evidence is a copy of the text message that reads in part,

“... I didn’t have paper so figured I would just text you my email address. ...”

[Reproduced as written.]

The landlord testified that they did not get the tenant’s forwarding address prior to receiving the tenant’s application for dispute resolution.

Analysis

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

Return of security deposit and pet damage deposit is defined in Part 2 of the Act.

Return of security deposit and pet damage deposit

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.

In this case, I am not satisfied that the tenant provided the landlord with their forwarding address as required by section 38 of the Act, as the landlord denied it was received. Further, the evidence submitted by the tenant in support of their application only shows they gave the landlord an email address, which is not in compliance with section 38 of the Act. Therefore, I find the tenant’s application for the return of the Deposit premature.

However, at the hearing I confirmed with the landlord that they now have the tenant's forwarding address by way of the tenant's application for dispute resolution. Therefore, I find the landlord is considered to have received the tenant's forwarding address on May 6, 2018. The landlord has 15 days from the date of the hearing to comply with section 38 of the Act.

Should the landlord fail to comply with section 38 of the Act, I find the tenant is at liberty to reapply for the return of double their Deposit.

Conclusion

The tenant's application 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: May 07, 2019

Residential Tenancy Branch