



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL –S; FFL

Introduction

This hearing was scheduled for 1:30 p.m. on today's date, via teleconference call, to deal with the landlord's application for a Monetary Order for damage to the rental unit and authorization to retain the tenants' security deposit. The landlords appeared at the hearing; however, there was no appearance on part of the tenants.

The landlord testified that they were unable to serve the tenants with notification of this proceeding because the tenants did not provide them with a forwarding address despite the landlord's numerous requests for them to provide one.

The landlords had also made an Application for Substituted Service; however, their application for a substituted service order was denied.

In order for a hearing to proceed without the respondents present, I must be satisfied that the respondents were notified of the claims against them by serving them in a manner permitted under section 89 of the Act. In this case, the landlords have not served the tenants with their Application for Dispute Resolution in any way permitted under section 89 of the Act or otherwise. Therefore, I dismiss the landlord's application with leave to reapply.

The landlords are not obligated to reapply except where the tenants give the landlords a forwarding address in writing within one year of the tenancy ending.

Having heard the tenants have yet to provide the landlords with a forwarding address in writing, the landlords still have time to make a claim against the tenant's security deposit. The time limit for making a claim against a security deposit is within 15 days of the date the tenancy ended or the date the landlord received a written forwarding address from the tenant, whichever date is later. Since the tenants have yet to provide

the landlords with a forwarding address in writing, the 15 day time limit has yet to start. Therefore, I do not order return of the security deposit with this decision.

The parties are also informed that a tenant has one year from the time the tenancy ended to provide the landlord with a forwarding address in writing and if the tenant does not provide a forwarding address in writing within one year, the tenant loses the right to return of the security deposit, as provided in section 39 of the Act. Section 39 of the Act provides as follows:

Landlord may retain deposits if forwarding address not provided

39 Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

- (a) the landlord may keep the security deposit or the pet damage deposit, or both, and
- (b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

Conclusion

The landlords' application against the tenants is dismissed with leave to reapply.

I have not ordered return of the security deposit to the tenants as the tenants have not yet provided the landlords with a forwarding address in writing and the landlords are still within their time to make a claim against the security deposit.

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: August 27, 2019

Residential Tenancy Branch