



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PETER WALL MANSION & ESTATES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDLS MNRLS FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for a monetary order for damage to the unit, site or property, for unpaid rent or utilities, to retain all or a part of the tenant's security deposit and/or pet damage deposit, and to recover the cost of the filing fee.

An agent for the landlord MG ("agent") attended the teleconference hearing. As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding ("Notice of Hearing"), application and documentary evidence was considered. The agent testified that the Notice of Hearing, application and documentary evidence was mailed on July 11, 2019, via registered mail to the tenants at their address provided as their written forwarding address on the outgoing Condition Inspection Report. A tracking number was provided in evidence and has been included on the cover page of this decision for ease of reference. The agent testified that the tenants were mailed the Notice of Hearing, application, and documentary evidence to both tenants in the same registered mail package and did not serve the tenants individually with their own package.

Preliminary and Procedural Matters

As the landlord has served both tenants in the same registered mail package, I find that each person has not been individually served, as required by section 89 of the *Act* and section 3.1 of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules").

Both parties have the right to a fair hearing. The tenants would not be aware of the hearing without having received the Notice of Hearing and application. Therefore, I **dismiss** the landlord's application **with leave to reapply** as I am not satisfied the

tenants have been sufficiently served with the Notice of Hearing and application in a method provided for under the *Act* and the Rules. I note this decision does not extend any applicable time limits under the *Act*.

Due to a service issue, I do not grant the filing fee under the *Act*.

As the landlord has claimed against the tenants' security deposit and the application is dismissed with leave to reapply due to a service issue, I must now deal with the tenants' security deposit under section 38 of the *Act*. Given the above, I make the following order:

I ORDER the landlord to return the tenants' full security deposit of \$997.50 within 15 days of the receipt of this decision, pursuant to sections 38 and 62(3) of the *Act*.

Should the landlord fail to comply with my order above, the tenants are at liberty to apply for compensation under the *Act*.

This decision will be emailed to the landlord at the email address confirmed during the hearing. The decision will be sent to the tenants by regular mail as an email address was not provided for the tenants.

Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue as indicated above.

This decision does not extend any applicable time limits under the *Act*.

The filing fee is not granted due to a service issue.

I have made one order listed above regarding the security deposit. Should the landlord fail to comply with my order, the tenants are at liberty to apply for compensation under the *Act*.

This decision will be emailed to the landlord and sent by regular mail to the tenants.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 16, 2019

Residential Tenancy Branch