



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT, FFT

Introduction

On October 1, 2019, the Tenant applied for a Dispute Resolution proceeding seeking a return of the security deposit pursuant to Section 38 of the *Residential Tenancy Act* (the “*Act*”), seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing; however, the Landlord did not attend the 24-minute hearing. All in attendance provided a solemn affirmation.

The Tenant advised that he served the Notice of Hearing and evidence package to the Landlord by registered mail on October 6, 2019 (the registered mail tracking number is listed on the first page of this decision). Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was deemed to have received the Notice of Hearing and evidence package five days after it was mailed.

The Tenant confirmed that he did not provide a forwarding address in writing to the Landlord, pursuant to the *Act*, prior to making this Application. As the Tenant made his Application before providing the Landlord with a forwarding address in writing, I find the Tenant’s Application to be premature.

The Tenant must first provide his forwarding address in writing to the Landlord and the Landlord must deal with the security deposit, pursuant to Section 38 of the *Act*, within 15 days of receiving this forwarding address. If the Landlord does not deal with the security deposit within 15 days of receiving the forwarding address in writing, the Tenant can then re-apply for double the deposit, pursuant to the *Act*. However, the Tenant was cautioned that should he make a future Application, it would be up to the Arbitrator in

that subsequent hearing to determine if there is jurisdiction under the *Act* with respect to this situation.

As the Tenant was unsuccessful in his application, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the Tenant's Application for Dispute Resolution 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: December 5, 2019

Residential Tenancy Branch