



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for a monetary order in the amount of \$6,578.80 for unpaid rent or utilities, for damage or loss under the Act, regulation or tenancy agreement, to retain all or a part of the tenant's security deposit, and to recover the cost of the filing fee.

An agent for the landlord LP (agent) attended the teleconference hearing. As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated October 23, 2019 (Notice of Hearing), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence was served by registered mail to the written forwarding address to the tenants, that the tenants provided by email to the landlord. The agent stated that the tenants did not vacate the rental unit until October 9, 2019, and filed their application claiming towards the tenants' security deposit of \$650.00 on October 15, 2019. The agent was unable to provide the registered mail tracking number in evidence and confirmed 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 Rule 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 applied against the tenants' security deposit, I will deal with the tenants' security deposit under section 38 of the Act. I find the landlord applied within the 15 day timeline provided under the Act and therefore, I order the landlord to return the tenants' full \$650.00 security deposit within 15 days of the date of this decision, March 6, 2020. Should the landlord fail to return the tenant's security deposit, I am granting the tenants a monetary order in the amount of **\$650.00**, which will be of no force or effect if the landlord pays the tenants as ordered above.

This decision will be emailed to both parties at the email addresses provided in the landlord's application.

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.

This decision will be emailed to the landlord and tenants. The monetary order will be emailed to the tenants only, for service on the landlord, if necessary. The tenants have been granted a monetary order of \$650.00 as noted above.

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: March 6, 2020

Residential Tenancy Branch