



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the tenants for a Monetary Order for the return of the security deposit (the deposit).

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on April 29, 2020, the tenants sent the landlord the Notice of Direct Request Proceeding by e-mail. The tenants provided a copy of the outgoing e-mail containing attachments of the supporting documents to confirm this service.

The Residential Tenancy Branch's Director's Order on e-mail service dated March 30, 2020 provides that a document required to be sent in accordance with sections 88 and 89 of the *Act* may be sent by e-mail if the sender and recipient e-mail addresses have been routinely used for tenancy matters.

The tenants submitted a copy of an Interac e-Transfer sent to the landlord and an e-mail reply to the transfer from the landlord, dated August 17, 2018, showing that the landlord and tenants used e-mail for tenancy issues.

Based on the written submissions of the tenants and in accordance with the Director's Order, I find that the landlord will be deemed to have been served with the Direct Request Proceeding documents on May 2, 2020, the third day after their e-mailing.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation for the return of a security deposit pursuant to sections 38 and 67 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenants submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord on September 8, 2019 and the tenants on October 1, 2019, indicating a monthly rent of \$1,750.00, for a tenancy commencing on October 1, 2019;
- A copy of an Interac e-Transfer from the tenants for \$875.00 of security deposit, paid by the tenants, and an e-mail reply from the landlord dated August 17, 2018 thanking the tenants for the deposit;
- A copy of a text message from the tenants to the landlord providing the forwarding address;
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that the forwarding address was sent to the landlord by text message and by registered mail on April 29, 2020;
- A copy of a Canada Post Customer Receipt containing the Tracking Number to confirm the forwarding address was sent to the landlord on April 29, 2020; and
- A copy of a Tenant's Monetary Order Worksheet for an Expedited Return of Security Deposit and/or Pet Damage Deposit (the Monetary Order Worksheet) showing the amount of deposit paid by the tenants and stating that the tenancy ended on March 19, 2020 with the tenants vacating the rental property on April 27, 2020.

Analysis

Section 38(1) of the *Act* states that the landlord has fifteen days from the end of tenancy and the date they received the forwarding address to either return the deposit(s) in full or make an application for dispute resolution claiming against the deposit(s).

I find that the tenants applied for dispute resolution on April 29, 2020, the same day they sent the forwarding address to the landlord by text message and registered mail, and that they did not provide the landlord the 15 days to return the deposit or file an application for dispute resolution in accordance with section 38(1) of the *Act*.

I find that the tenants made their application for dispute resolution too early.

Therefore, the tenants' application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

Conclusion

I dismiss the tenants' application for a Monetary Order for the return of the security deposit 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: April 30, 2020

Residential Tenancy Branch