



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, FF

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for the return of double the security deposit pursuant to section 38 and 67 of the Act;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenants served the landlord with the notice of hearing package and the submitted documentary evidence by regular mail to the landlord's last known address. The landlord confirmed that this was no longer a valid address, but that he did receive the package in early December 2019. During the hearing the landlord provided a new mailing address for service. The landlord stated that the tenants were served with his submitted documentary evidence via Canada Post Registered Mail on April 2, 2020. The tenants confirmed receipt of this package as claimed by the landlord. Neither party raised any other service issues. I accept the evidence of both parties and find that both parties have been sufficiently served and are deemed served as per section 90 of the Act.

At the outset, the tenants clarified that the request for \$100.00 for money owed or compensation was in error as this was related to recovery of the \$100.00 filing fee. The tenants confirmed that this was a duplicate request and as such can be cancelled as the tenants had made a separate request for the filing fee as well.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for return of double the security deposit and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed that the tenancy ended on November 2, 2019 when the tenants returned the rental unit keys after vacating the rental unit on October 31, 2019. Both parties also confirmed the landlord still holds the \$800.00 security deposit paid by the tenants as of the date of this hearing.

Both parties confirmed that the tenants did not provide the landlord with their forwarding address in writing for return of the security deposit. The tenants stated that the landlord was aware of their new address based upon a text message dated October 7, 2019 in which their prospective landlord's address was provided to the landlord notifying him that he would be called for a reference. Both parties confirmed that the landlord was not provided consent to retain the security deposit nor has the landlord filed an application to dispute its return.

Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award pursuant to subsection 38(6) of the Act equivalent to the value of the security deposit.

In this case, I accept the undisputed affirmed evidence of both parties and find that the tenancy ended on October 31, 2019 when the tenants vacated the rental unit and agreed to deliver the rental unit key to the landlord on November 2, 2019. I also find that the tenants failed to provide their forwarding address in writing for return of the \$800.00 security deposit. Both parties confirmed the landlord did not have the tenants' consent to retain the security deposit nor has the landlord filed an application to dispute its return.

On this basis, I find that the tenants are entitled to return of the original \$800.00 security deposit. However, as the tenants failed to comply with section 38 (1) by providing their

forwarding address in writing the tenants are not entitled to compensation under section 38 (6) of the Act.

The tenants having been partially successful are entitled to recovery of the \$100.00 filing fee.

Conclusion

The tenants are granted a monetary order for \$900.00.

This order must be served upon the landlord. Should the landlord fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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 27, 2020

Residential Tenancy Branch