



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenant's application pursuant to section 38 of the *Residential Tenancy Act* (the "Act") for authorization to obtain a return of all or a portion of the security deposit.

The landlords did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The tenants attended and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenants gave evidence that they served the landlord with their notice of application and evidence by registered mail sent on January 24, 2020. The tenants submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the landlords are deemed served with the tenant's materials on January 29, 2020, five days after mailing, in accordance with sections 88, 89 and 90 of the Act.

Issue(s) to be Decided

Are the tenants entitled to a return of all or a portion of their security deposit?

Background and Evidence

The tenants testified that this periodic tenancy began in January 2018 and ended in December 2019. A security deposit of \$500.00 and pet damage deposit of \$250.00 were paid at the start of the tenancy and are still held by the landlord.

The tenants submit that they provided their forwarding address to the landlord on December 30, 2019. The tenants provided an audio recording of a conversation between two unidentified parties as evidence that they provided the forwarding address.

The tenants now seek a return of the security and pet damage deposit for this tenancy.

Analysis

Section 38 of the *Act* requires the landlord to either return the tenant's security deposit in full or file for dispute resolution for authorization to retain the deposit 15 days after the later of the end of a tenancy and or upon receipt of the 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 section 38(6)(b) of the *Act*, equivalent to double the value of the security deposit. However, this provision does not apply if the landlord has obtained the tenant's written authorization to retain all or a portion of the security deposit to offset damages or losses arising out of the tenancy as per section 38(4)(a).

The tenants gave evidence that they provided the landlords with their forwarding address in writing on December 30, 2019. The tenants rely upon an audio recording as evidence that a forwarding address was provided. I find that a recording of unidentified parties to be of little assistance in establishing that a written forwarding address was provided to the landlord as required under the *Act*. I find there is insufficient evidence to establish that a proper forwarding address was provided and am unable to determine that the landlord's obligation under the *Act* to return the security and pet damage deposit has started.

I find that the running on time has not begun. Once the tenants provide a forwarding address to the landlord in writing the landlord will then have 15 days to apply for dispute resolution or return the tenant's security and pet damage deposit.

Conclusion

I dismiss the tenant's application 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: June 12, 2020

Residential Tenancy Branch