



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act). The tenant applied for the return of their security deposit and to recover the cost of the filing fee.

The tenant, a support person for the tenant KH (support person), and the landlord attended the teleconference hearing and were affirmed. The parties were provided the opportunity to present their documentary evidence and testimony and expectations regarding conduct were provided.

During the hearing, the landlord was formally cautioned for interrupting on several occasions. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

At the outset of the hearing, the surname of landlord corrected by consent and pursuant to section 64(3)(c) of the Act. In addition, and by consent, the rental unit address was corrected pursuant to section 64(3)(c) of the Act.

In addition, the parties confirmed their respective email addresses at the outset of the hearing. The parties were advised that the decision will be sent by email to both parties.

Issues to be Decided

- Is this application premature?
- If yes, should this application be dismissed with leave to reapply?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. Although the tenancy agreement does not list the tenant as a tenant, the parties agreed during the hearing that the original tenant vacated and the tenant who made the application before me, assumed the tenancy as of April 1, 2020. The parties also agreed that the tenant vacated the rental unit on June 1, 2020.

The tenant testified that they paid their security deposit of \$750.00 to the former tenant and the landlord did not deny that they continue to hold the original tenant's security deposit of \$750.00. The tenant is seeking the return of their \$750.00 security deposit, plus the filing fee.

A document dated September 26, 2020 was considered, which states that the original tenant, JL, obtained \$750.00 from the tenant before me, and that the landlord continues to hold the original security deposit. As a result, the parties were advised that I find the landlord holds the security deposit of the tenant now, as JL has been compensated already, and the landlord continues to hold a security deposit of \$750.00

The tenant failed to provide a copy of their written forwarding address and instead, referred to a text in evidence that was part of a chain of texts, which were summarized by the tenant and were not screenshots of the original texts.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

I find that the tenant's application is premature, due to the fact that the tenant confirmed that they provided their forwarding address via text, which I find is not an approved method for service under the Act.

I have also considered that the tenant failed to provide a copy of their written forwarding address for my consideration. In addition, the application itself does not constitute a written forwarding address under the Act. As a result, and in accordance with Residential Tenancy Branch (RTB) Practice Directive 2015-01, I find that the landlord has been served with the tenant's forwarding address as of the date of the hearing, October 13, 2020.

The landlord's position is that the original tenant, JL, must apply for the return of their own security deposit. The parties were advised that I disagreed with the landlord's position, as I find the document date September 26, 2020, supports that the landlord is holding the only security deposit related to this tenancy, which I find is the security deposit of SOR, the tenant applicant.

I ORDER the landlord to return the tenant's \$750.00 security deposit within 15 days of this hearing, October 13, 2020 pursuant to section 62(3) of the Act.

Should the landlord fail to comply with my order, the tenant is granted leave to apply for compensation for double the return of the security deposit under section 38 of the Act.

I do not grant the filing fee as the application was premature.

Conclusion

The tenants' application is premature and is therefore dismissed, with leave to reapply.

The landlord must return the tenant's full \$750.00 security deposit to SOR, which has accrued no interest to date, within 15 days of October 13, 2020. Failure to do so may result in the tenant applying for monetary compensation under the Act. The forwarding address of the tenant has been included on the style of cause of this decision for ease of reference.

The filing fee is not granted as noted above.

This decision will be emailed to both parties 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: October 13, 2020

Residential Tenancy Branch