Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   MNSDS-DR, FFT

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 tenant for a Monetary Order for the return of double the security deposit (the deposit).

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 25, 2020, the tenant sent the landlord the Notice of Direct Request Proceeding by registered mail. The tenant provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that the landlord is deemed to have been served with the Direct Request Proceeding documents on September 30, 2020, the fifth day after their registered mailing.

Issue(s) to be Decided

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

Is the tenant entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord on September 26, 2017 and the tenant on September 25, 2017, indicating a monthly rent of $12,500.00, a security deposit of $6,250.00, and a pet damage deposit of $6,250.00, for a tenancy commencing on October 17, 2017;

- A copy of a Two Month Notice to End Tenancy indicating that the tenancy ended on December 31, 2018;

- A copy of a letter from the tenant to the landlord dated June 18, 2020, providing the forwarding address and requesting the return of the deposit;

- A copy of a witnessed 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 attached to the landlord's mailbox at 3:00 pm on June 18, 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 tenant and indicating the tenancy ended on December 31, 2018.

Analysis

Section 39 of the *Act* states that a landlord may keep the deposit(s) if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy.

I find that the tenancy ended on December 31, 2018, the date indicated on the Two Month Notice and the Monetary Order Worksheet.

I find that the last day the tenant had to provide their written forwarding address to the landlord was December 31, 2019. I further find that the tenant gave the landlord the forwarding address on June 18, 2020, after the deadline provided under section 39 of the *Act*.

As the landlord was not provided the forwarding address within one year of the tenancy's end, I find the landlord was not obligated to return the security deposit to the tenant.

For this reason, the tenant's application for a Monetary Order for the return of double the security deposit is dismissed without leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the $100.00 filing fee paid for this application.

Conclusion

I dismiss the tenant's application for a Monetary Order for the return of double the security deposit without leave to reapply.

I dismiss the tenant's application to recover the filing fee paid for this application without 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: October 08, 2020

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Residential Tenancy Branch