



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 Tenants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for the return of their \$800.00 security deposit., and to recover the \$100.00 cost of their Application filing fee.

The Tenants and the Landlord appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenants and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Parties confirmed their email addresses at the outset of the hearing, and they also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

Issue(s) to be Decided

- Are the Tenants entitled to a monetary order, and if so, in what amount?
- Are the Tenants entitled to recovery of the Application filing fee?

Background and Evidence

The Parties agreed that the fixed-term tenancy began on December 15, 2019, running to August 31, 2020, and then it was to operate on a month-to-month basis. They agreed that the Tenants paid the Landlord a monthly rent of \$1,600.00, due on the first day of each month. The Parties agreed that the Tenants paid the Landlord a security deposit of \$800.00, and no pet damage deposit.

The Parties agreed that the Tenants moved out on August 28, 2020, because they needed a larger rental unit. They also agreed that the Tenants had not provided the Landlord with their forwarding address in writing. The Tenants confirmed that their address in the Application is correct, and I advised the Parties that the Landlord had now been provided with the Tenants' forwarding address in writing, as of the date of the hearing, January 8, 2021.

The Landlord gave evidence about the amount the Tenants owe her in unpaid utilities; however, the Landlord had not applied for compensation through arbitration, therefore, any outstanding debt is not relevant to the matters before me.

Analysis

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

Section 38(1) of the Act states the following about the importance of the connection between the date a tenancy ends and the date on which a tenant provides their forwarding address to a landlord in writing. Section 38 (1) states:

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

The Tenants had not provided their forwarding address to the Landlord in writing at the time of their Application, therefore, the Landlord was not obliged to return the security deposit to the Tenants under the Act. I, therefore, dismiss the Application with leave to reapply, as I find that the Landlord has now been provided the Tenants' forwarding address in writing, as of January 8, 2021, the date of the hearing.

The Landlord has 15 days from January 8, 2021 to return the full security deposit or to apply for dispute resolution, claiming against the security deposit.

Conclusion

The Tenants' Application is dismissed with leave to reapply, as they applied prior to having provided the Landlord with their forwarding address, pursuant to section 38 of the Act.

The Landlord has been provided with the Tenants' forwarding address in the Application, as of January 8, 2021, the date of the hearing.

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: January 19, 2021

Residential Tenancy Branch