



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT MNSD

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 double their \$700.00 security deposit, and \$1,400.00 for "notice period by the landlord was not legally applied."

The tenant, a support person for the tenant DW (support person) and the landlords appeared at the teleconference hearing. The tenant and landlords were affirmed and provided affirmed testimony. During the hearing the parties presented evidence. A summary of the evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The tenant stated that she did not receive the documentary evidence from the landlords. The landlords provided a registered mail tracking number, which has been included on the style of cause for ease of reference. According to the landlords, they mailed the tenant their documentary evidence by registered mail on January 14, 2020, which is supported by the Canada Post registered mail tracking website information. The tenant stated that she was no longer at the address the tenant provided as their service address on their application. The tenant was advised that it is the responsibility of the applicant to keep the respondent apprised of any change in their service address. As a result, and pursuant to section 90 of the Act, I find the registered mail package was deemed served 5 days after it was mailed, on January 19, 2020.

Preliminary and Procedural Matters

The parties confirmed their email addresses at the outset of the hearing. The parties also confirmed their understanding that the decision would be emailed to both parties.

At the outset of the hearing, the tenant was asked why they were claiming a full month of rent valued at \$1,400.00 for what is described in their application as “the notice period by the landlord was not legally applied”. The tenant stated that they were seeking a full month of rent as compensation for the landlord accessing their rental unit on several occasions. The tenant was then asked why in the letter dated October 15, 2020 from the tenant which sets out their claim, is only one date of entry listed under #1. The tenant replied, “it is all in the text messages”. The parties were advised that it is not up to the respondent or the undersigned Arbitrator to search for a claim and that I find the tenant’s claim for one month of compensation to be vague and unclear and is dismissed without leave to reapply under section 59 of the Act.

Section 59(2)(b) of the Act requires that sufficient particulars be provided, which I find the tenant failed to do with respect to the tenant’s claim for one month of compensation. In fact, I find that proceeding with the that portion of the tenant’s claim would be prejudicial to the landlords, as the absence of particulars makes it difficult, if not impossible, for the landlords to adequately prepare for the hearing. In addition, I have considered Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 2.9 which states that an applicant may not divide a claim and as a result, I do not grant leave to reapply to the tenant for that portion of their claim that was unclear and vague.

As a result, I will consider only the tenant’s claim for the return of their security deposit of \$700.00.

Issues to be Decided

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

Background and Evidence

At the outset of the hearing, the tenant confirmed that they have not provided their written forwarding address to the landlords since vacating the rental unit on October 15, 2020. The landlords provided no supporting evidence that the tenant had surrendered their security deposit to the landlords in writing.

Given the above, the tenant was provided the ability to provide their forwarding address during the hearing, which has been reflected in writing on the style of cause of this decision.

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 for the return of their security deposit is premature, due to the fact that the tenant confirmed that they have not provided their written forwarding address to the landlords since they vacated the rental unit. As a result, and in accordance with Residential Tenancy Branch (RTB) Practice Directive 2015-01, I find that the landlords have been served with the tenant's written forwarding address of the date of this hearing, February 9, 2021, which has been included on the style of cause for ease of reference.

The landlords must deal with the tenant's security deposit within 15 days of February 9, 2021, in accordance with section 38 of the Act.

As the filing fee was waived, I do not grant the filing fee.

The tenant has liberty to reapply for double the return of the security deposit should the landlords fail to deal with the tenant's \$700.00 security deposit in accordance with the Act.

Conclusion

The tenant's claim for one month of compensation is refused under section 59 of the Act and is not given leave to reapply pursuant to section 2.9 of the RTB Rules.

The remainder of the tenant's application related to the \$700.00 security deposit is premature and is therefore dismissed, with leave to reapply.

I find that the landlords have been served with the tenant's written forwarding address of the date of this hearing, February 9, 2021, and has been included on the style of cause for ease of reference. The landlords must deal with the tenant's security deposit within 15 days of February 9, 2021 in accordance with section 38 of the Act.

This decision will be emailed to the parties as noted above.

The tenant has liberty to reapply for double the return of the security deposit should the landlords fail to deal with the tenant's \$700.00 security deposit in accordance with the Act.

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: February 9, 2021

Residential Tenancy Branch