



Dispute Resolution Services

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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 the security deposit (the deposit).

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on March 15, 2021, the tenant sent Landlord C.A. the Notice of Direct Request Proceeding by registered mail. The tenant provided a copy of the Canada Post Tracking Report 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 Landlord C.A. is deemed to have been served with the Direct Request Proceeding documents on March 20, 2021, the fifth day after their registered mailing.

The tenant has not submitted a copy of a Proof of Service Tenant's Notice of Direct Request Proceeding to establish service of the Notice of Direct Request Proceeding to Landlord T.L.A.

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 landlords and the tenant on July 27, 2015, indicating a monthly rent of \$3,000.00, a security deposit of \$1,500.00, first month's rent of \$3,000.00, and first month's rent of \$3,000.00, for a tenancy commencing on August 1, 2017

- A copy of a Condition Inspection Report which was signed by one of the landlords on June 5, 2020, containing the tenant's forwarding address
- A copy of a Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit (the forwarding address) dated February 20, 2021
- A copy of a 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 sent to the landlords by registered mail at 2:06 pm on February 23, 2021
- A copy of a Canada Post Tracking Report containing the tracking number to confirm the forwarding address was in fact sent to the landlords on February 20, 2021 and was delivered on February 23, 2021
- A copy of a Tenant's Direct Request Worksheet showing the amount of deposit paid by the tenant, an authorized deduction of \$3,000.00, and indicating the tenancy ended on June 2, 2020

Analysis

The tenant has submitted a copy of a Condition Inspection Report, signed by one of the landlords on June 5, 2020, and containing the tenant's forwarding address. However, on the Tenant's Direct Request Worksheet, the tenant has indicated they could not participate in the move-out inspection.

For this reason, I find I am not able to determine when or whether the landlords received the tenant's forwarding address as part of the Condition Inspection Report.

However, in accordance with the Canada Post Tracking Report, I find that the landlords were served with the forwarding address form on February 23, 2021.

Section 38(1) of the *Act* states that within fifteen days of the tenancy ending and the landlords receiving the forwarding address, the landlords may either repay the deposit or make an application for dispute resolution claiming against the deposit.

I find that the fifteenth day for the landlords to have either returned the deposit or filed for dispute resolution was March 10, 2021.

I find that the tenant applied for dispute resolution on March 8, 2021, before the landlords' last day to comply with the provisions of section 38(1) of the *Act*.

I find that the tenant made their application for dispute resolution too early.

Therefore, the tenant's application for a Monetary Order for the return of double the security deposit is dismissed with 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 with 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: March 30, 2021

Residential Tenancy Branch