



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT, OLC, MNDCT, RP, OT**

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- authorization to recover the filing fee for this application from the landlord pursuant to section 72;
- an order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62;
- a monetary award for damages and loss pursuant to section 67;
- an order for repairs pursuant to section 33; and
- other relief.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

The landlord confirmed receipt of the tenant's application and materials. Based on the testimony I find the landlord duly served with the tenant's materials in accordance with sections 88 and 89 of the Act.

The landlord testified that they served the tenant with their evidentiary materials by registered mail sent to the address for service provided on the tenant's application on or about June 5, 2021. Based on the testimony I find the tenant deemed served with the landlord's evidence on June 10, 2021, five days after mailing in accordance with sections 88 and 90 of the Act.

At the outset of the hearing the parties testified that this tenancy has ended with the tenant vacating the rental unit. The tenant withdrew the portion of their application pertaining to an ongoing tenancy. The tenant clarified that their monetary claim is a claim for a return of the security and pet damage deposit for this tenancy.

Issue(s) to be Decided

Is the tenant entitled to a return of the deposits for this tenancy?

Is the tenant entitled to recover their filing fee from the landlord?

Background and Evidence

The parties agree that this tenancy has ended with the tenant vacating the rental unit. The tenant testified that they paid a security deposit of \$700.00 and pet damage deposit of \$700.00 which are still held by the landlord.

The tenant testified that they have not provided the landlord with a forwarding address. The tenant said that the service address on the tenant's application is no longer a valid address for service. The tenant said that they do not yet have a fixed address to provide as a forwarding address where the deposits for this tenancy can be returned.

Analysis

Section 38 of the *Act* requires the landlord to either return the tenant's security and pet damage deposit in full or file for dispute resolution for authorization to retain the deposit 15 days after the later of the end of a tenancy and or upon receipt of the tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award, pursuant to section 38(6)(b) of the *Act*, equivalent to double the value of the security and pet damage deposit.

The tenant has not provided the landlord with a forwarding address. Therefore, I find that the landlord's obligations under the *Act* to either return the tenant's deposits or file an application for dispute resolution have not started. Once the tenant provides a forwarding address to the landlord in writing the landlord will then have 15 days to apply for dispute resolution or return the tenant's security deposit.

Conclusion

The tenant's application for return of the deposits for the tenancy is dismissed with leave to reapply.

The balance of the application is withdrawn and dismissed 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: September 27, 2021

Residential Tenancy Branch