



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-DR

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 to obtain monetary compensation for the return of the security deposit and the pet damage deposit (the deposits).

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the tenant on September 2, 2021.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 16, 2021, the tenant sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request 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 Direct Request Proceeding documents were served on September 16, 2021 and are deemed to have been received by the landlord on September 21, 2021, 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 and a pet damage deposit pursuant to sections 38 and 67 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 and the tenant on September 13, 2020, indicating a monthly rent of \$1,375.00 and a security deposit of \$687.50 + \$50.00
- A copy of a Condition Inspection Report which was signed by the landlord and the tenant on August 22, 2021, indicating the tenancy ended on August 31, 2021 and that the tenant provided a forwarding address at the time of the move-out inspection

- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposits paid by the tenant and indicating the tenancy ended on August 22, 2021

Analysis

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

I have reviewed all documentary evidence and I note that the Condition Inspection Report indicates the tenancy ended on August 31, 2021. However, the Tenant's Direct Request Worksheet states the tenancy ended on August 22, 2021.

Despite this discrepancy, I find the tenant filed their application too early. The following calculations are done using the earlier date, August 22, 2021.

If the tenancy ended on August 22, 2021, the fifteenth day for the landlord to have either returned the deposits or filed for dispute resolution would have been September 6, 2021.

I find that the tenant applied for dispute resolution on September 2, 2021, before the landlord's 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 the security deposit and the pet damage deposit is dismissed with leave to reapply.

Conclusion

I dismiss the tenant's application for a Monetary Order for the return of the security deposit and the pet damage deposit with 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 05, 2021

Residential Tenancy Branch