



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction and Preliminary Matters

On July 20, 2021, the Landlord made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”), seeking to apply the security deposit and pet damage deposit towards these debts pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, the Tenant did not attend at any point during the 45-minute teleconference. At the outset of the hearing, I informed the Landlord that recording of the hearing was prohibited and she was reminded to refrain from doing so. She acknowledged this term, and she provided a solemn affirmation.

She advised that the tenancy started on July 1, 2020 and that the tenancy ended on May 31, 2021 when the Tenant gave up vacant possession of the rental unit. She stated that rent was established at \$1,200.00 per month and that it was due on the first day of each month. As well, she indicated that a security deposit of \$600.00 and a pet damage deposit of \$600.00 were also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

She testified that the Tenant moved her friend into the rental unit a month after the tenancy began without the Landlord’s consent. She stated that the Tenant always paid the rent by e-transfer, that she never received any monies, rent or otherwise, from the Tenant’s friend, and that the tenancy agreement was never amended to add this person onto the tenancy as an additional tenant. Thus, the only Tenant in this tenancy is the person named as the Respondent on this Application.

She advised that she received an email in May 2021 from the Tenant's friend with a forwarding address; however, the email did not indicate that this address was for the Tenant. She stated that she did not make an Application to claim against the deposits using this address as it was her belief that this was not the Tenant's forwarding address, but some other random address that the Tenant's friend provided.

She then stated that the Tenant's friend made an Application, claiming to be the Landlord's tenant, and seeking a return of the Tenant's security deposit and pet damage deposit (the relevant file number is noted on the first page of this Decision). In that Application, the Tenant was also listed as an Applicant, but the address used in that Application was the same one provided to the Landlord by the Tenant's friend. She stated that she received this Notice of Direct Request proceeding package on July 13, 2021 and then subsequently used the address listed on this package to make her own Application on July 20, 2021.

She served her own Notice of Hearing and evidence package on August 4, 2021 by registered mail to the address that was provided by the Tenant's friend on the Application that they made (the registered mail tracking number is noted on the first page of this Decision). She stated that this package was returned to sender. As well, she indicated that the Application made by the Tenant and her friend was dismissed with leave to reapply.

When reviewing the evidence before me, I do not find that there is any evidence to satisfy me that the Tenant's friend was ever a tenant of this tenancy. As such, there was no relationship established under the *Act* between these parties. Consequently, I do not find that the address that the Tenant's friend provided by email was ever a forwarding address for the Tenant. Moreover, I am not satisfied that the Tenant's friend was even permitted to make the Application for a Direct Request proceeding and represent herself as a tenant of this tenancy.

Despite this Application for a Direct Request proceeding being made by the Tenant's friend and the Tenant, I do not find that this would constitute serving the Landlord with a forwarding address in writing as contemplated by the *Act*. More specifically, what this means is that I am not satisfied that the Tenant had ever provided her forwarding address in writing to the Landlord.

Therefore, as the Landlord's Notice of Hearing package was served to an address that was not the Tenant's, I am not satisfied that the Tenant has been duly served this package. As such, the Landlord's Application is dismissed with leave to reapply.

The parties are reminded that pursuant to Section 39 of the *Act*, the Landlord may keep the security deposit and/or the pet damage deposit if the Tenant does not give the Landlord a forwarding address in writing within one year after the end of the tenancy. In addition, if the Landlord does receive this forwarding address in writing from the Tenant within a year of the tenancy ending, the Landlord must deal with the deposits in accordance with Section 38 of the *Act*.

As the Landlord was not successful in this Application, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

I dismiss the Landlord's Application with leave to re-apply.

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: February 3, 2022

Residential Tenancy Branch