



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on April 7, 2022. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for the return of the security deposit

The Tenant and the Landlords all attended the hearing and provided affirmed testimony. The Landlord confirmed receipt of the Tenant's Notice of Dispute Resolution Proceeding and evidence. No service issues were raised. The Landlord did not provide any documentary evidence.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?

Background and Evidence

The Tenancy Agreement provided into evidence shows that monthly rent was set at \$1,350.00 and was due on the first of the month. The Landlord collected a security deposit in the amount of \$675.00.

The Tenant moved in around July 1, 2021, and moved out on October 31, 2021. The Tenant stated he did not recall if and when he provided his forwarding address, in writing, to the Landlord for the purposes of the return of the security deposit.

The Landlords stated they never got any letter containing the Tenant's forwarding address in writing, following the end of the tenancy. The Landlords stated that they only noted the Tenant's new address as it was listed on the return address portion of the envelope which contained the Notice of Dispute Resolution Proceeding for this proceeding. The Landlords stated that they received this package around November 14, 2021, but by that time, the Landlords had already sent the Tenant back \$535.00 of the \$675.00 security deposit, by email transfer.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

In this case, I find the Tenant has not sufficiently provided his forwarding address in writing to the Landlords. It is not sufficient to merely put the forwarding address on the envelope which contains your application for dispute resolution. I do not find this method of providing the address is sufficient to trigger section 38(1) of the *Act*. The Tenant was required to provide his forwarding address in writing, and allow the Landlord 15 days to either return the deposit, or file an application against the deposit. If the Landlord did neither, then the Tenant may file an application for the return of the deposit. In any event, I do not find the Tenant has sufficiently served his forwarding address to the Landlord, in writing. As such, I dismiss the Tenant's application on this matter, with leave to reapply.

I find it important to note the following portion of the Act:

Landlord may retain deposits if forwarding address not provided

39 Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing **within one year after the end of the tenancy**,

- (a) the landlord may keep the security deposit or the pet damage deposit, or both, and
- (b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

The Tenant remains at liberty to provide his forwarding address in writing to the Landlord. However, since the tenancy ended on October 31, 2021, the Tenant should keep in mind the time limits for providing the forwarding address, as specified above.

Since the Tenant was not successful with his application, I decline to award the cost of the filing fee they incurred to file this application.

Conclusion

The Tenant's application has been dismissed, 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: April 07, 2022

Residential Tenancy Branch