



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 tenants to obtain monetary compensation for the return of the security deposit (the deposit) and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the tenants on March 17, 2022.

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on April 4, 2022, the tenants sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenants provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing.

Based on the written submissions of the tenants and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on April 4, 2022 and are deemed to have been received by the landlord on April 9, 2022, the fifth day after their registered mailing.

Issue(s) to be Decided

Are the tenants 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*?

Are the tenants entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenants submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord on June 18, 2020 and one of the tenants on June 14, 2020, indicating a monthly rent of \$1,700.00 and a security deposit of \$850.00, for a tenancy commencing on June 1, 2020
- A copy of a Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit (the forwarding address) dated January 22, 2022
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (the Proof of Service of the Forwarding Address) which indicates that the forwarding address was sent to the landlord by registered mail on January 22, 2022
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposit paid by the tenant and indicating the tenancy ended on August 30, 2020

Analysis

Section 39 of the *Act* provides the following:

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 tenants have indicated that the tenancy ended on August 30, 2020. The tenants have also indicated that they sent their forwarding address to the landlord on January 22, 2022, over a year after the tenancy ended.

In accordance with section 39 of the *Act*, I find the tenants' right to the return of the security deposit is extinguished.

For this reason, the tenants' application for a Monetary Order for the return of the security deposit is dismissed without leave to reapply.

On the Application for Dispute Resolution, the tenants have indicated they are also seeking compensation for three \$500.00 rental assistance payments that were paid the landlord after the tenancy ended.

I note that the only monetary award available to a tenant by way of the Direct Request process is for the return of a security deposit and pet damage deposit.

For this reason, the tenants' application for a Monetary Order for reimbursement of rental assistance payments is dismissed with leave to reapply.

As the tenants were not successful in this application, I find the tenants are not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the tenants' application for a Monetary Order for the return of the security deposit without leave to reapply.

I dismiss the tenants' application for a Monetary Order for the reimbursement of rental assistance payments with leave to reapply.

I dismiss the tenants' application to recover the filing fee paid for this application without leave to reapply.

This interim 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: May 03, 2022

Residential Tenancy Branch