



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 June 27, 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 attended the hearing. However, the Landlords did not. The Tenant stated that she served the Notice of Dispute Resolution Proceeding and evidence to the Landlords by registered mail on December 2, 2021. The Tenant provided registered mail tracking information to support service of this package. Pursuant to section 90 of the Act, I find the Landlords are deemed to have received this package 5 days after it was mailed, on December 7, 2021.

The Tenant was 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 Tenant stated that the tenancy ended on August 27, 2021, which was the day she returned the keys and did the move-out inspection. The Tenant stated that monthly rent was set at \$1,250.00 and was due on the first of the month, and the Landlord collected, and still holds, a security and pet deposit totalling \$1,250.00.

The Tenants stated that she sent an email to the Landlord on June 22, 2021, requesting to move out early, prior to the end of her fixed term, and at that time she stated she gave the Landlord a copy of her forwarding address in writing. The Tenant was unclear about whether or not the Landlord acknowledged receipt of this email. The Tenant stated she did not have any agreement in writing, with the Landlord, about serving documents and evidence via email.

The Tenant stated that she also provided her forwarding address in writing to the Landlords on October 28, 2021, by registered mail. However, the Tenant did not provide any tracking information for this package. The Tenant provided a proof of service document to show when she sent her forwarding address in writing to the Landlord. However, this proof of service document is only partly filled out, and does not include the receipt for mailing. The Tenant provided a copy of the Tenant's Notice of Forwarding Address document, dated October 27, 2021.

The Tenant also stated that she sent her forwarding address in writing to the Landlords on December 2, 2021, as part of this dispute resolution package. The Tenant also stated she sent her forwarding address in writing to the Landlord by registered mail on November 26, 2021. However, no mail tracking was provided for this item.

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 note the Tenant has stated she sent her forwarding address to the Landlords numerous times. First, I note the Tenant stated she sent her forwarding address via email on June 22, 2021. However, I note the email is not an approved method of service under the Act, unless the parties have an agreed up front to serve each other documents via email. There is no evidence that the parties had agreed to this up front, and there is insufficient evidence that the Landlord was sufficiently served, and that they received the forwarding address by way of the email sent.

I note the Tenant also stated that she sent her forwarding address in writing on October 28, 2021, by registered mail. However, the Tenant failed to provide tracking information for this mailing. The proof of service document provided by the Tenant is not completed and does not include a receipt. This document also refers to the documents being sent on November 26, 2021. However, no mail tracking information was provided for this mailing either.

The Tenant stated that she also sent the Landlord her forwarding address in writing, by registered mail on December 2, 2021, by way of this Notice of Dispute Resolution Proceeding package. However, I find that a forwarding address only provided by the Tenant as part of the Notice of Dispute Resolution Proceeding does not meet the requirement of a separate written notice for this purpose.

Having reviewed the totality of evidence and testimony on this matter, I find the Tenant has failed to sufficiently demonstrate that she sufficiently served the Landlords with her forwarding address in writing, for the return of her deposits. I found the Tenants explanation of what was served, and when, was unclear and confusing, and there was insufficient registered mail tracking information or receipts provided to corroborate what was sent and when.

Since the forwarding address was not properly provided from the Tenant to the Landlords, in writing, I dismiss the Tenant's application on this matter, with leave to reapply. I strongly encourage the Tenant to utilize registered mail to serve the Landlord with their forwarding address in writing, and if the Landlord fails to return the deposit, then the Tenant can reapply, and provide registered mail tracking information to show they served the Landlord with their forwarding address in writing.

This decision does not extend any statutory limitations under the Act.

Since the Tenant was not successful with her application, I decline to award the cost of the filing fee she 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: June 27, 2022

Residential Tenancy Branch