



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **MNSD, FFT**

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act ("Act") for orders as follows:

- For an order returning the security deposit pursuant to section 38 of the Act
- For reimbursement of the filing fee pursuant to section 72 of the Act

Both landlords CM and RD and tenant LH attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the Act.

Preliminary Issue

Pursuant to section 64(3)(c) of the Act I amend the style of cause on the dispute application to include the landlord CM who is also listed on the tenancy agreement,

Issue(s) to be Decided

1. Is the tenant entitled to the return of the security deposit?
2. Is the tenant entitled to recover the filing fee for this application?

Background and Evidence

The tenancy commenced March 14, 2014 on a month to month basis. The rent was \$950.00 per month due on the first of the month. The landlords still hold a security deposit of \$375.00 in trust for the tenant. The tenancy ended October 31, 2020. The application for dispute resolution was filed October 31, 2022.

Security Deposit

The landlords testified that they withheld the tenant's security deposit because of extensive damage to the rental unit. The landlords had acquired the rental unit from another landlord and the tenant was occupying the rental unit at that time. Neither of the parties provided evidence regarding the completion of a move in condition inspection report. The landlords testified that no move out condition inspection was completed.

The landlords agreed that the tenant provided a forwarding address that was received October 31, 2022 and it was provided by the tenant in the dispute package. The landlord confirmed that they did not file an application for dispute resolution and still hold the security deposit.

Analysis

Section 39 of the Act states that if the tenant has not provided a forwarding address within one year after the end of the tenancy the landlord may keep the security deposit. In this instance the tenant provided a forwarding address two years after the end of the tenancy.

The tenant's application for return of the security deposit is therefore dismissed in its entirety.

Conclusion

The tenant's application is dismissed.

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 16, 2023