



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AERDYS INVESTMENT MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSDB-DR, FFT

Introduction

This hearing was scheduled to convene at 1:30 p.m. on December 14, 2023 by way of conference call concerning an application made by the tenant seeking a monetary order for return of all, or part, or double the amount of the security deposit or pet damage deposit; and to recover the filing fee from the landlord for the cost of the application. The tenant's application was made by way of the Direct Request process, which was referred to this participatory hearing.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call.

The tenant advised that the landlord was served with the Notice of Dispute Resolution Proceeding by registered mail on July 3, 2023 and has provided a Proof of Service document, as well as a Canada Post cash register receipt containing that date and a tracking number. I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

All evidence of the tenant has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlord for all or part or double the amount of the security deposit and pet damage deposit?

Background and Evidence

The tenant testified that this fixed-term tenancy began on October 1, 2013 and reverted to a month-to-month tenancy after October 1, 2014, which ultimately ended on May 31, 2023. Rent in the amount of \$1,975.00 was originally payable on the 1st day of each month which was raised during the tenancy to about \$2,204.00. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$1,400.00 as well as a pet damage deposit in the amount of \$1,000.00. A copy of the tenancy agreement has been provided as evidence for this hearing. The Addendum to the tenancy agreement states that the security deposit includes a \$400.00 utility deposit.

The tenant further testified that the landlord changed the company name after the tenancy began.

A hearing was held before the Residential Tenancy Branch on January 6, 2023; the landlord had attempted to evict the tenant, but because the rental unit hadn't yet sold, the tenant won the Arbitration. The landlord ceased all communication right after the hearing. The rental home sold and the new owners gave a new Notice to end the tenancy.

The tenant gave the landlord a forwarding address in writing in an email dated May 31, 2023, but the landlord has not returned the deposits and has not served the tenant with an application claiming against the deposits. A copy of a string of emails has been provided for this hearing, wherein the landlord was advised of the tenant's forwarding address. The tenant testified that the only method of communication with the landlord was by email.

The tenant claims return of the \$2,400.00 deposits and recovery of the \$100.00 filing fee.

Analysis

The *Residential Tenancy Act* requires a landlord to return a security deposit and/or pet damage deposit in full within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an Application for Dispute Resolution claiming against the deposit(s) within that 15 day period. If the landlord fails to do either, the landlord must repay double the amount of the deposit(s) to the tenant.

In this case, the tenant provided a forwarding address to the landlord by email on May 31, 2023 and the tenancy ended on that day.

Generally, when a rental unit sells, the deposit(s) is/are transferred in the Statement of Adjustments to the purchaser. The tenant testified that the rental unit sold, however the tenant has not provided a copy of the Two Month Notice to End Tenancy For Landlord's Use of Property, and therefore I cannot be satisfied which of the landlords is responsible for return of the deposits.

Further, the law states that documents served, including a forwarding address of the tenant for return of the deposits, cannot be served by email unless that receiving party has agreed to the exchange of documents by email. I have reviewed the tenancy agreement, and there is no such consent by the landlord. I have also reviewed the email messages provided by the tenant for this hearing which does not include any response from the landlord to satisfy me that the landlord has received the forwarding address in writing. The Proof of Service document provided by the tenant for serving the Notice of Dispute Resolution Proceeding documents to the landlord does not show a return address of the tenant.

As a result, I cannot provide the tenant with a monetary order for the return of the security deposit, and I dismiss the tenant's application with leave to reapply.

Conclusion

For the reasons set out above, the tenant's application is hereby 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: December 22, 2023

Residential Tenancy Branch