



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenants for an order for the return of their security and pet deposits. Despite having been served with the application for dispute resolution and notice of hearing via registered mail sent to the corporate landlord's registered and records office, the landlord did not participate in the conference call hearing. As I found that the landlord had been served pursuant to the provisions of the Act, the hearing proceeded in the landlord's absence.

Issue to be Decided

Are the tenants entitled to an order for the return of their security and pet deposits?

Background and Evidence

The undisputed evidence before me is as follows. The tenancy was set to begin on August 1, 2012. For reasons that go beyond the scope of the issue before me, the tenants did not move into the rental unit. In a letter dated September 6, 2012, counsel for the tenants wrote to the landlord asking that he return the pet and security deposits no later than September 16, 2012. As of the date of the hearing, the tenants had not yet received their deposits.

Analysis

Section 38(1) of the Act requires the landlord to either return deposits in full or make an application to retain them within 15 days of the later of the end of the tenancy and the date the landlord receives the tenants' forwarding address in writing.

Although the tenants' counsel wrote to the landlord on her letterhead on September 6, I note that the body of the letter does not direct the landlord to return the security deposit to a specific address. As the letterhead itself contains 2 addresses for the tenants' counsel, I find that the tenants have not yet provided for the landlord a forwarding

address to which the deposits should be sent and I find that the landlords' obligation to deal with the deposits pursuant to section 38 has not yet been triggered.

I find that the application is premature and I dismiss it with leave to reapply. I note that should the landlord fail to deal with the deposits within 15 days, section 38(6) of the Act provides that the tenants are entitled to the return of double their deposits.

Conclusion

The claim is 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 10, 2012

Residential Tenancy Branch