



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing convened as a result of a Tenants' Application for Dispute Resolution wherein they sought return of double their security deposit as well as recovery of the filing fee.

Both parties called into the hearing, which was held by teleconference. The parties were given an opportunity to be heard, to present their affirmed testimony, to present their evidence orally and in written and documentary form, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Are the Tenants entitled to return of double their security deposit?
2. Should the Tenants recover the filing fee?

Background Evidence

The Tenant J.F. testified that that this seven month fixed term tenancy began October 1, 2015. Monthly rent was payable in the amount of \$1,800.00 and the Tenants paid a \$900.00 security deposit.

J.F. stated that while the Landlord did an informal “showing” of the rental unit, there was no formal move in condition inspection report completed.

J.F. stated that the tenancy ended on April 30, 2016. Again, he stated that a move out condition inspection report was not completed.

J.F. testified that they left their forwarding address on a piece of paper at the rental unit after moving out. The Tenants did not provide a copy of this letter piece of paper in evidence.

The Landlord, J.P. also testified. He stated that he did not perform a move in condition inspection as the rental unit was brand new when the tenancy began. He further confirmed that he did not complete a formal move out condition inspection report, rather a “walk through”.

J.P. stated that he did not receive the Tenants’ forwarding address in writing, and that if they did leave a piece of paper at the rental unit, he would not have received it as he does not reside at that address.

Analysis

Based on the evidence before me, the testimony of the parties and on a balance of probabilities, I find as follows.

Section 38(1) of the *Residential Tenancy Act* provides that a Landlord must make an application for dispute resolution or return the Tenants’ security deposit within 15 days of the end of the tenancy, or receipt of the Tenants’ forwarding address in writing, whichever is later.

The Tenants bear the burden of proving they provided the Landlord with their forwarding address in writing as required by section 38(1)(b). The Tenants claim they left a piece of paper at the rental unit with their forwarding address. The Landlord denies receiving such a piece of paper. As noted earlier in this my Decision, the Tenants failed to provide a copy of this piece of paper.

Based on the evidence before me, I am unable to find that the Tenants provided the Landlord with their forwarding address in writing. Accordingly, and as noted during the hearing their application is premature.

The Tenants confirmed their address as noted on their Application for Dispute Resolution. The Landlord was cautioned that he had fifteen (15) days from the date of the hearing to either return the security deposit or make an application to retain those funds. The Landlord was further cautioned to consider the extinguishment provisions in section 38.

Conclusion

The Tenants failed to prove they gave the Landlord their forwarding address in writing. Their application for return of double the security deposit paid 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: January 12, 2017

Residential Tenancy Branch