



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDLS MNRLS FFL

Introduction

This hearing dealt with the landlords' Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for a monetary order of \$1,675.00 for damage to the rental unit, site or property, for unpaid rent or utilities, to retain the tenants' security deposit and/or pet damage deposit, and to recover the cost of the filing fee.

The landlords attended the teleconference hearing. As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), application, and documentary evidence were considered. The landlords testified that the tenants were served with their monetary claim to the address provided by the tenants on their written forwarding address. The landlords stated that only one package was mailed by registered mail to the tenants naming both tenants on one package.

Section 89(1) of the *Act* and section 3.1 of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules") require that each respondent be served with the application. Given the above, and given that the landlords confirmed that only one package was served on two tenants, I am unable to determine which of the tenants was served, if any, as the landlords did not have the registered mail tracking number either during the hearing.

Both parties have a right to a fair hearing and the tenants must be served with the Notice of Hearing and application in an approved method under the *Act*. Therefore, I **dismiss** the landlords' application **with leave to reapply due to a service issue**.

As the landlords still have the tenants' security deposit and there was a service issue and the landlords were provided with the tenant's written forwarding address, I **ORDER** the landlords to either return the tenants' security deposit (and pet damage deposit if

applicable) or file a new application to claim against the deposit(s) no later than **November 28, 2018**. I have extended the usual 15 day timeline described in section 38 of the *Act* pursuant to section 62(2) of the *Act* as this decision will be sent to the landlords by the RTB and it is unknown on which day the landlords will receive this decision. Therefore, to ensure the landlords have adequate time to either return the deposit(s) to the tenants or submit a new application claiming against the deposit(s) I have ordered that the landlords have until November 28, 2018 to either return the tenants' deposit(s) or file a new application to claim against them. **The landlords may also provide a copy of this decision at any future dispute resolution hearing to demonstrate that they were granted until November 28, 2018 to deal with the tenants' deposits.**

I do not grant the recovery of the cost of the filing fee due to the service issue.

Conclusion

The landlords' application is dismissed with leave to reapply due to a service issue. See above for my order relating to the deposit(s) of the tenants held by the landlords.

I do not grant the filing fee.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: November 2, 2018

Residential Tenancy Branch