

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MN

Introduction

This hearing dealt with an application by the tenant for a monetary order. Both parties participated in the conference call hearing and had opportunity to be heard.

Issue(s) to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy ended in late October 2008 and that during the tenancy, the tenant paid her rent by way of a cheque issued by the Ministry of Employment and Income Assistance (the "Ministry") which was made payable to the landlord and sent to the rental unit. The landlord does not reside at the rental unit. The tenant submitted evidence showing that in late December 2008 the Ministry sent to the rental unit a cheque payable to the landlord and that the cheque had been negotiated. The tenant claims that the landlord cashed the cheque and seeks to recover the amount of the cheque.

The landlord testified that since the tenancy ended, he has not received cheques from the tenant and has never had a cheque mailed directly to him from the Ministry, but that the cheques were always given to him by the tenant.

Analysis

The tenant bears the burden of proving that the landlord has the funds which she claims rightfully belong to her. While I accept that the cheque has been negotiated, I find that the tenant has not proven that the landlord is the party who negotiated the cheque. The cheque may have been made out in the landlord's name, but it was sent to the rental unit, where the landlord does not reside and does not receive mail. As the tenant has

not proven that the landlord negotiated the cheque, the tenant's claim is dismissed.

Conclusion

The tenant's claim is dismissed.

Dated March 02, 2009.