

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a Monetary Order for the return of his security deposit.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on March 30, 2009. Mail receipt numbers were provided in the tenant's documentary evidence. The landlord was deemed to be served the hearing documents on April 4, 2009, the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Is the tenant entitled to a Monetary Order for the return of his security deposit pursuant to Section 38 of the *Residential Tenancy Act*?

Background and Evidence

The tenancy began on February 1, 2009 with rent payable at \$450.00 per month. The tenant paid a security deposit of \$225.00 on January 21, 2009.

The tenant testified that he rented a bedroom in the basement of the landlord's home and that he shared the upstairs kitchen with the landlord and two other tenants.

The tenant stated that he lived in the rental unit for only 2 weeks and that he moved out mid February 2009 because he returned home one day and found the landlord smoking drugs in the rental unit. The tenant stated that the landlord has refused to return his security deposit.

Analysis

Section 4 of the *Residential Tenancy Act* stipulates that this Act does not apply to living accommodation in which the tenant shares bathroom “or” kitchen facilities with the owner of that accommodation.

Based on the aforementioned I find that the tenancy in question does not fall under the jurisdiction of the *Residential Tenancy Branch* and I dismiss the tenant’s application without leave to reapply.

Conclusion

I HEREBY DISMISS the tenant’s application, without 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: June 18, 2009.

Dispute Resolution Officer