

DECISION

Dispute Codes: MNSD and FF

Introduction

This application was brought by the tenant seeking return of her security deposit in double pursuant to section 38(6) of the *Act* on the grounds that the landlord did not return it within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address.

This matter was originally set for hearing on April 12, 2010 but was rescheduled at the request of the respondent landlord who had previously booked travel out of the country.

Issues to be Decided

This application requires a decision on whether the tenant is entitled to a Monetary Order for return of her security deposit in double.

Background and Evidence

This 12-month fixed term tenancy began on September 15, 2009 and was set to end on August 31, 2010; however, the tenant gave notice on November 30, 2009 and vacated on December 31, 2009. Rent was \$850 per month and the landlord holds a security deposit of \$425.

During the hearing, the landlord stated that she had not returned the deposit as the tenant had breached the fixed term agreement, and she had suffered a loss of rent for January.

The landlord stated she had not been aware of her obligation under section 38(1) of the *Act* to return the deposit or make application to claim upon it within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address.

The tenant stated that she had given the landlord her forwarding address on December 31, 2009 when she returned the keys to the rental unit, but the landlord stated she had no recollection or record of having received it.

The landlord stated that she had advertised to find a new tenant for January but had not succeeded and had lowered the rent to \$780 to ensure she got a new tenant for February.

Having exchanged this information, the parties arrived at the following consent agreement:

Consent Agreement

1. The tenant agrees that the landlord may retain the security deposit in set off against her losses;
2. The landlord agrees that retention of the security deposit constitutes full and final settlement of the tenancy and she waives her right to make application for any further losses resulting from the tenant's breach of the fixed term agreement.

Conclusion

Our file on this matter is closed and classified as having been settled between the parties.

May 28, 2010