



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD

Introduction

The tenant seeks recovery of his security deposit. Both parties appeared at the hearing of this matter and gave evidence under oath.

Issues(s) to be Decided

Is the tenant entitled to the orders sought?

Background and Evidence

The tenant gave evidence that he has provided the landlord with his telephone number but he has not yet supplied his forwarding address because he does not have a forwarding address.

Analysis

Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the deposit (section 38(6)). If the tenant does not supply his forwarding address in writing within a year, the landlord may retain the deposit.

The triggering event is the provision by the tenant of the forwarding address. In this case the evidence is that the tenant has not provided a forwarding address to the landlord in writing. Therefore the landlord's obligation to return the deposit or make application to retain it has not been triggered.

Conclusion

The tenant's application for recovery of the deposit is pre-emptory. It is therefore dismissed with leave to reapply.