



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OLC, MNDC, MNSD

Introduction

This matter dealt with an application by the Tenant for an Order that the Landlord comply with the Act by continuing the tenancy on a month-to-month basis after the expiry of a fixed term lease as provided for in the Parties' tenancy agreement. On August 19, 2010, the Tenant amended his application to remove his claim for this relief and instead he sought compensation of \$5,000.00 for loss of a service or facility and for the Landlord's alleged failure to make repairs and for the return of a security deposit.

At the hearing of this matter, the Landlord said she was opposed to proceeding with the Tenant's amended application as she had only received it on August 20, 2010, or 4 days prior, and did not have an opportunity to respond to it.

Section 38(1) of the Act also states that a Landlord's obligation to return a security deposit does not arise until the later of 15 days after the end of the tenancy or the date the Tenant provides the Landlord with their forwarding address in writing. The Tenant said he vacated the rental property on August 10, 2010 but admitted he had not paid rent for August, nor returned the keys to the rental unit nor had he given the Landlord a forwarding address in writing.

In the circumstances, I find that the Tenant's application for the return of his security deposit is pre-mature given that the 15 day period under the Act has not yet expired. Furthermore, I find that it would be prejudicial to the Landlord to proceed with the Tenant's application for compensation given that she has not had a sufficient opportunity to respond to it. Consequently, the Tenant's amended application for compensation and for the return of his security deposit is dismissed with leave to reapply.

Conclusion

The Tenant's amended application is dismissed with 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: August 30, 2010.

Dispute Resolution Officer