

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application for a monetary Order for return of the security deposit.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent on June 18, 2010, to each landlord via registered mail at the address noted on the Application. A Canada Post tracking number was provided as evidence of service to each landlord. During the hearing the tenant checked the Canada Post web site and determined that the mail had been received by each landlord on September 21, 2010.

These documents are deemed to have been served in accordance with section 89 of the Act; however the landlord did not appear at the hearing.

Issue(s) to be Decided

Is the tenant entitled to return of the deposit paid?

Background and Evidence

The tenancy commenced on March 1, 2009 and ended on May 31, 2010. A deposit in the sum of \$525.00 was paid on January 28, 2009 and a further \$25.00 was paid on March 1, 2009.

The tenant stated that the landlord is entitled to retain \$300.00 for rent owed, by way of a previous agreement she had with the landlord. The tenant is claiming the balance owed in the sum of \$250.00

The tenant took several days to move out and was told by the landlord that they would complete the move-out condition inspection in her absence. The landlord told the tenant they had no plans to rent the unit out until July 1, 2010.

After moving out the tenant contacted the landlord who told her that the balance of the deposit was being retained as the tenant had over held.

The tenant served the landlord with her written forwarding address at the time she served them with Notice of this hearing.

Analysis

Section 38 of the Act requires a tenant to provide the landlord with a written forwarding address. Once the tenancy has ended and the written address has been given; the landlord then has fifteen days for the latest date to either return the deposit or claim against the deposit.

As the tenant has not previously given the landlord her written forwarding address and the landlord has been served with Notice of this hearing, I find that upon receipt of this decision the landlord will have fifteen days in which they must comply with section 38 of the Act.

I find that this decision will be deemed served to the landlord by November 3, 2010, and that by November 18, 2010, the landlord must comply with the Act. A copy of the Tenant's Application which indicates the tenant's forwarding address, is included with my decision for the landlord.

Conclusion

The landlord has until November 18, 2010, to comply with section 38 of the Act.

The tenant's 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: October 28, 2010.

Dispute Resolution Officer