



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant and the landlord.

During the hearing the tenant was willing to provide the landlord with her address but the landlord suggested she did not want it, as she planned to retain the security deposit.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to o a monetary order for return of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 39, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began in October 2009 as a month to month tenancy for the monthly rent of \$900.00 due on the 1st of the month with a security deposit of \$400.00 paid. The tenancy ended when the tenant moved out of the rental unit at the end of January 2010.

Both parties provided substantial testimony regarding events during the tenancy including the landlord issuing a 2 Month Notice to End Tenancy for Landlord's Use of Property and the tenant issuing her own notice to end the tenancy.

Both parties confirmed in their testimony that the tenant had not provided the landlord with a forwarding address in writing at any time, including when the tenant served the landlord with notice of this hearing.

The tenant testified that the landlord did have her cell phone number and so she anticipated the landlord would call her to arrange return of the security deposit. The tenant confirms that despite not hearing from the landlord she did not call the landlord to discuss the matter.

Analysis

Section 38 of the *Act* states that a landlord must, within 15 days of the end of the tenancy *and* receipt of the tenant's forwarding address **in writing**, return to the tenant the security deposit less any mutually (in writing) agreed upon deductions or file an Application for Dispute Resolution claiming against the deposit.

Section 39 states that if a tenant does not give the landlord a forwarding address **in writing** within one year after the end of the tenancy the landlord may keep the security deposit, or both, and the right of the tenant to return of the security deposit is extinguished.

As the tenant has not yet provided the landlord with her forwarding address in writing, up to and including when she served the notice of this hearing on the landlord, I find the tenant's Application for Dispute Resolution to be premature.

Conclusion

Based on the above, I dismiss the tenant's Application in its entirety 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: December 15, 2010.

Dispute Resolution Officer