

DECISION

Dispute Codes MNDC, O

Introduction

This hearing dealt with an application by the tenant for money owed or compensation for damage or loss and other. The tenant participated in the conference call hearing but the landlord did not. The tenant presented evidence that the landlord was served with the application for dispute resolution and notice of hearing documents. I found that the landlord had been properly served with notice of the tenant's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issues to be Decided

Is the tenant entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy ended October 15, 2008 and the tenant filed for dispute resolution on October 15, 2010.

The tenant testified that the landlord still holds his November 2008 disability cheque and he is seeking to have it returned. The tenant stated that the landlord did not cash the November 2008 disability cheque however the cheque has never been forwarded to the tenant or the ministry.

The tenant understands that the landlord may no longer be in possession of the November 2008 disability cheque, but if she is the tenant would like it returned to the tenant or the issuing ministry.

Evidence submitted by the landlord notes that the tenancy ended September 30, 2008 and not October 15, 2008 and that the tenant is out of time to apply to this office. The tenant maintains that on August 15, 2008 all of the tenants were given 2 months notice to vacate and that he moved out on October 15, 2008 and not September 30, 2008 as the landlord's evidence states.

The tenant also testified that a second party, 'JS' had placed an ad on Craigslist to rent a room at this location and that JS took a \$250.00 cash deposit from the tenant; JS was not associated in any way with the landlord. The landlord did return the tenants security deposit to him however the landlord is not responsible for actions of someone not related to the tenancy and this portion of the tenant's application is dismissed.

Analysis

Based on the documentary evidence and testimony I find that the tenant has filed for dispute resolution within the required two (2) year time limit.

As the landlord has not cashed the cheque in question the tenant is not entitled to a monetary order for money owed and the tenant's application for a monetary order is dismissed without leave to reapply.

The landlord is requested to check the tenancy records for 2008 and if the landlord is still in possession of the tenant's disability cheque, the landlord is to return the cheque to the tenant or ministry office no later than February 11, 2011.

Conclusion

If the landlord is still in possession of the tenant's 2008 disability cheque, the landlord is to return the cheque to the tenant or ministry office no later than February 11, 2011.

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: January 17, 2011

Residential Tenancy Branch