

DECISION

Dispute Codes: MNSD

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of her security deposit. The tenant stated that she served the notice of hearing to the landlord in person on September 10, 2010. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issue to be Decided

Is the tenant entitled to the return of the security deposit?

Background and Evidence

The tenant testified that on August 19, 2010 she viewed the rental unit with the intention of renting it at the advertised monthly rent of \$595.00. The tenant stated that on that day she gave the landlord \$295.00 in cash, to hold the unit for her. The tenancy was due to start on September 01, 2010. The tenant stated that on August 25, 2010, she gave the landlord two cheques in the amounts of \$295.00 and \$375.00 which represented rent for September and in addition, she gave him \$250.00 in cash. The tenant filed a receipt dated August 19, 2010 for the amount of \$250.00. This receipt is signed by someone other than the landlord.

On August 28, 2010, the tenant informed the landlord that she would not be renting the unit as she could not afford to have the gas account in her name and also because there was a considerable amount of fungus in the bathroom. The landlord informed the tenant that he would return her security deposit if he found a tenant for September.

The tenant did not give the landlord her forwarding address in writing. She advised the landlord that she would pick up the deposit in person.

The tenant has applied for the return of her security deposit and has indicated in her application that the amount of the deposit is 545.00.

Analysis

Section 16 of the *Residential Tenancy Act*, states that the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit.

Based on the testimony of the tenant, I find that on August 28, the tenant informed the landlord that she would not be moving in on September 01. In this case the tenant did not give the landlord adequate notice to end the tenancy pursuant to section 45, thereby causing the landlord to suffer a loss of income for the month of September 2010.

In addition, pursuant to Section 38 of the *Residential Tenancy Act*, the tenant did not give the landlord a forwarding address in writing. The tenant's verbal testimony regarding the amount of the security deposit and amounts paid to the landlord contradicted her written statement. The tenant filed a receipt for the amount of \$250.00 but is claiming the return of \$545.00. Based on the verbal testimony and the evidence filed by the tenant, I find that she has not proven her case.

Conclusion

The tenant's case is dismissed.

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 04, 2011.

Residential Tenancy Branch