

DECISION

Dispute Codes: MNSD

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of the security deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be Decided

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

Background and Evidence

The tenancy started on April 01, 2009 and ended on August 31, 2010. Prior to moving in the tenant paid a security deposit of \$410.00. The rental unit was located in the basement of the home

The tenant testified that she rented the unit from PC who was the occupant of the upper floor. He showed her the unit and accepted her security deposit. She paid him rent every month and he was the person to whom she would report any problems with the rental unit.

In March 2010, PC disappeared along with rent for March. The owner of the property visited the unit to find out why rent was not paid. The owner was unaware that PC had sublet the basement. He met the tenant for the first time during this visit.

It was later learnt that PC had cashed the tenant's rent cheque but did not pay rent to the owner. PC was escorted out of the country by police. The tenant is requesting the return of her security deposit.

Analysis

Based on the sworn testimony of both parties, I find that PC and the tenant were in a landlord/tenant relationship and that PC was the landlord for all intents and purposes. The tenant paid her security deposit to PC.

I find that the tenant is entitled to the return of the security deposit. However, the tenant must apply for its return from the landlord that she paid it to (PC). Therefore, I find that the respondent is not liable for the return of the security deposit and accordingly, the tenant's application is dismissed with leave to reapply.

Conclusion

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: January 26, 2011.

Residential Tenancy Branch