



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit plus compensation equal to the amount of the deposit due to the Landlord's alleged failure to return the deposit within the time limits required under the Act.

The Tenant's application included the names of three other individuals however, the copy of the tenancy agreement submitted by the Tenant as evidence at the hearing names only him as a tenant. In the circumstances, I find that the other individuals named on the Tenant's application are not properly named as parties to this proceeding and the Tenant's application is amended to remove them as Tenants. If these individuals had separate tenancy agreements with the Landlord, they must *each* file a separate application for dispute resolution.

The Tenant served the Landlord with the Application and Notice of Hearing (the "hearing package") to the rental unit address by registered mail on October 4, 2010. The Tenant provided a copy of an e-mail from the Landlord dated September 28, 2010 in which he advised the Tenant that each of the tenants should send their forwarding addresses to him at this address. In the circumstances, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

Issue(s) to be Decided

1. Is the Tenant entitled to the return of his security deposit and if so, how much?

Background and Evidence

This fixed term tenancy started on April 15, 2010 and expired on September 1, 2010. Rent was \$450.00 per month. The Tenant paid a security deposit of \$450.00. The Tenant gave his forwarding address to the Landlord by e-mail on September 10, 2010. The Tenant said the Landlord has not returned his security deposit and he did not give the Landlord written authorization to keep the security deposit.

Analysis

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date he receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit or to make an application for dispute resolution to make a claim against it. If the Landlord does not do either one of these things and does not have the Tenant's written authorization to keep the security deposit then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit.

I find that the Tenant's e-mail of September 10, 2010 (or any electronic messaging) does not satisfy the requirement of writing as required by s. 38(1) of the Act. Consequently, the Tenant's application is dismissed with leave to reapply upon providing evidence that he has served the Landlord with his forwarding address in writing and that the required 15 days since doing so have expired.

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 17, 2011.

Residential Tenancy Branch