

DECISION

Dispute Codes:

MNDC; MNSD

Introduction

This is the Tenant's application for return of the security deposit and compensation for damage or loss under the Act, Regulation or tenancy agreement.

The Tenant and his agent gave affirmed testimony at the Hearing.

Issues to be Decided

- Is the Tenant entitled to a Monetary Order against the Landlord pursuant to the provisions of Sections 38 and 67 of the Act?

Background and Evidence

The Tenant and his agent gave the following evidence:

- The rental unit is a suite in a house. Monthly rent was \$740.00. The Landlord lived in the main part of the house during the term of the tenancy.
- The Tenancy ended on December 15, 2008, by mutual agreement.
- The Tenant filed an Application for Dispute Resolution against the security deposit in the autumn of 2009. The Tenant did not sign into the scheduled Hearing and his application was dismissed with leave to reapply.
- The Tenant re-applied on September 20, 2010.
- The Tenant mailed the Notice of Hearing documents to the Landlord at the rental property on September 22, 2010, via registered mail. The Tenant's agent quoted the tracking number. The Tenant's agent testified that the documents were returned to the Tenant marked "refused".
- The Tenant paid the Landlord a security deposit in the amount of \$370.00. The Tenant met with an agent of the Landlord to perform a move-out condition inspection. The Landlord's agent confirmed that there were no damages and the Tenant would be refunded the security deposit. The Landlord has not returned the security deposit to the Tenant.
- On December 15, 2008, the rental unit was rented to the Landlord's agent. The Tenant paid full rent to the Landlord on December 1, 2008, and seeks compensation in the amount of \$370.00.
- The Tenant also seeks a monetary award in the amount of \$740.00 for the Landlord breaching the Tenant's peaceful enjoyment of the rental unit.

Analysis

The Landlord did not sign into the Hearing.

It is important to note that the Tenant did not provide any documentary evidence in support of his application (i.e. a copy of the tenancy agreement; condition inspection report; mutual end of tenancy agreement; letter enclosing notification of Tenant's forwarding address; registered mail receipt, etc.) The Tenant's agent stated that these documents were all provided to the original application filed in autumn, 2009. The Tenant did not apply to recover the documents from that file.

The Tenant's agent also stated that he had "80 pages of documents" to support the Tenant's application. No documents whatsoever were provided in evidence.

Section 39 of the Act provides that a tenant's right to return of a security deposit is extinguished if the tenant does not provide the landlord with a forwarding address in writing within one year of the end of the tenancy.

The tenancy ended more than 2 years ago and the Tenant provided no explanation for the delay in applying or re-applying for dispute resolution. Section 60 of the Act provides that an application for dispute resolution must be made within 2 years of the date that the tenancy ends or is assigned.

Without supporting documentation, the Tenant has not provided sufficient evidence to prove:

- that he served the Landlord with the Notice of Hearing documents; or
- the particulars of the tenancy; or
- that he is entitled to recovery of the security deposit from the Landlord.

For the above reasons, I dismiss the Tenant's application without leave to reapply.

Conclusion

The Tenant's application is dismissed without 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 13, 2011.
