



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD

Introduction

This conference call hearing was convened in response to the tenant's application for a Monetary Order for the return of his security deposit. Both parties attended the hearing and provided affirmed testimony. They presented oral evidence and confirmed receipt of the material they intended to submit at the hearing.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for the return of his security deposit?

Background and Evidence

The rental unit consists of a two storey detached home located in Delta. The parties agreed that pursuant to a written agreement, the month to month tenancy started on February 1st, 2009 and ended on November 1st, 2009. The monthly rent of \$1450.00 was payable on the first of each month. The tenant paid a security deposit in the amount of \$725.00.

At the outset, the tenant testified that approximately one week after the end of tenancy, he provided the landlord with a hand written notice of his forwarding address. The landlord testified that this never occurred and that he never received a forwarding address in writing. The tenant said that he did not make a copy of the notice and could not provide it as evidence of proper service.

Analysis

Section 38(1) of the *Residential Tenancy Act* provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the landlord received the tenant's forwarding address in writing. I cannot make a determination with respect to this criterion, in view of the parties' sharply opposed testimony.

The landlord's obligation to return the deposit is not triggered until such time as the landlord receives the address in writing. At the hearing, the tenant confirmed that his forwarding address is the same as the one provided on his application for dispute resolution. The landlord is hereby put on notice that he is now deemed to have received the tenant's forwarding address in writing, effective 5 days from the date of this decision.

Therefore the landlord must make an application for dispute resolution by no later than February 17th, 2011 or return the security deposit to the tenant.

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 28, 2011.

Residential Tenancy Branch