



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenant for an order for the return of the security deposit. Both parties participated in the conference call hearing.

Issue to be Decided

Is the tenant entitled to an order for the return of his security deposit?

Background and Evidence

The tenancy began on July 15, 2009 and ended on or about August 15, 2010. At the outset of the tenancy the landlord collected a security deposit of \$1,250.00. The tenant gave the landlord his forwarding address on September 23, 2010 by sending a letter to the rental unit, where the landlord does not reside. The landlord denied having received the forwarding address.

Analysis

Section 38(1) of the 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 forwarding address is received in writing. The landlord's obligation to deal with the deposit is not triggered until such time as the landlord has received the address in writing.

Although the tenant claimed that the landlord carried on business as a landlord at the rental unit, he denied that he received mail at that address. I find that the tenant has not proven that the forwarding address was received by the landlord and find that the landlord's obligation to deal with the security deposit has not been triggered.

At the hearing the tenant confirmed that his forwarding address is the same as the address for service the provided on his application for dispute resolution. At the hearing

I advised the landlord that he is deemed to have received the tenant's forwarding address in writing on the date of the hearing. The landlord must either make an application for dispute resolution or return the deposit to the tenant no later than March 2, 2011.

Conclusion

I find that the tenant's application is premature and I dismiss it 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: February 15, 2011

Residential Tenancy Branch