



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution, seeking a return of their security deposit.

The female Tenant appeared, gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and make submissions to me.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on March 3, 2011, the Landlord did not appear. The Tenants provided a copy of the registered mail envelope and testified that the mail was sent to the address at which the Landlord carried on business as a landlord. The evidence indicates that the registered mail went unclaimed; however the Tenants successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act (the "Act"). Thus the hearing proceeded in the Landlord's absence.

Issue(s) to be Decided

Are the Tenants entitled to a monetary order for a return of their security deposit?

Background and Evidence

The Tenant testified that this month to month tenancy began on October 31, 2010, ended on or about February 12, 2011, monthly rent was \$600.00 and a security deposit of \$300.00 was paid by the Tenants prior to the tenancy.

The Tenant testified that she supplied their written forwarding address to the Landlord by taping the note on *their* front door upon moving out.

The Tenants' evidence was a copy of the envelope of the registered mail containing the Notice of Hearing, showing the mail went unclaimed, and a copy of an out of date Notice to End Tenancy, issued by the Landlord during the tenancy.

Analysis

Based on the foregoing testimony and evidence, and on a balance of probabilities, I find as follows:

When making a claim for damages under a tenancy agreement or the *Act*, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or *Act*, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

In the absence of documentary proof of a tenancy, tenancy agreement or proof of payment of a security deposit, I find the Tenants have failed to substantiate their claim for a return of their security deposit.

Additionally, Section 88 of the Residential Tenancy Act provides for the acceptable methods for delivery of documents. As the Tenants posted their forwarding address on the Tenants' door, I find that the Tenants have not supplied the Landlord with their written forwarding address in accordance with Section 88.

Due to the insufficient evidence and lack of proof of a written forwarding address being provided to the Landlord, I **dismiss** the Tenants' application, **with leave to re-apply**.

Conclusion

The Tenants' Application for Dispute Resolution is dismissed with leave to re-apply.

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: June 14, 2011.

Residential Tenancy Branch