



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the tenant for the return of her security deposit.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on March 23, 2011. Mail receipt numbers were provided in the tenants' documentary evidence. The landlord was deemed to be served the hearing documents the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the tenant entitled to the return of her security deposit?

Background and Evidence

The tenant testifies that this month to month tenancy started on February 01, 2010 and ended on February 28, 2011 after she had given the landlord one months notice to end her tenancy. The tenant paid a monthly rent of \$1,000.00. The tenant paid a security deposit of \$500.00 on February 01, 2010.

The tenant states she gave the landlord her forwarding address by e-mail at the end of her tenancy but to date she has not received her security deposit. She states she would like an Order for the landlord to return her deposit.

Analysis

Section 38(1) of the *Act* says that a landlord (or the person acting as his agent) has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants address in writing, whichever is the latter, to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution.

The *Act* also states if the landlord fails to do this the tenant is entitled to recover double her security deposit from the landlord. In this matter the tenant has stated that she gave the landlord her forwarding address by e-mail but has received no correspondence from the landlord from this e-mail.

When a forwarding address is given by this method it is not deemed to be given in writing unless the landlord has acknowledged the e-mail by either replying to it or entering into other communication with the tenant that signified that he had received her forwarding address. In light of this I find the tenants application for the return of her security deposit to be premature as she has not provided any evidence to support her claim that she gave the landlord her forwarding address in writing.

Consequently, I dismiss the tenants' application with leave to reapply in the event the landlord does not comply with s. 38 of the *Act* in regard to the return of a security deposit.

Conclusion

The tenants' 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: July 04, 2011.

Residential Tenancy Branch