



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's application for a Monetary Order for return of her security deposit. Both parties appeared at the hearing and were provided the opportunity to make submissions and to respond to the submissions of the other party.

Issue(s) to be Decided

Has the tenant established an entitlement to return of the security deposit?

Background and Evidence

I heard undisputed testimony from the parties that on April 14, 2011 the tenant paid a \$400.00 security deposit to the landlord for a tenancy set to commence on April 15, 2011. A written tenancy agreement was not signed; however, the parties agreed the rent was to be \$800.00 per month. It was undisputed that the tenant did not move into the rental unit and did not pay any rent. It was also undisputed that the tenant sent the landlord a letter requesting return of the security deposit; and, the landlord has not returned the security deposit to the tenant.

The parties provided disputed testimony as to when the tenant sent the letter to the landlord; the condition of the rental unit at the beginning of the tenancy and attempts each party made to telephone the other party. The landlord was of the position she was entitled to retain the security deposit due to damages and loss she suffered as a result of the tenant's decision not to move in.

Neither party provided a copy of the tenant's letter as evidence for this hearing. Neither party had a copy of the letter before them during the hearing and could not verbally provide me with the specific content of the letter.

I note that in the details of dispute on the tenant's application the tenant states that she called the landlord but no mention is made of providing the landlord with a written forwarding address.

Analysis

A landlord has fifteen days from the later of the day the tenancy ends or the date the landlord receives the tenant's forwarding address, in writing, to file an Application for Dispute Resolution claiming against the deposit or to return the deposit to the tenant.

In the absence of a copy of the tenant's letter to the landlord and without either party being prepared to read from the letter during the hearing, I find there is insufficient evidence to conclude the tenant provided a forwarding address to the landlord in writing.

In light of the above, I find this application was made pre-maturely. I dismiss the tenant's application with leave to reapply. The tenant is at liberty to give the landlord her forwarding address in writing and make another application if the landlord does not comply with the requirements of section 38 of the Act.

Conclusion

This application was made pre-maturely and it 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: August 18, 2011.

Residential Tenancy Branch