



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, O

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit plus compensation equal to the amount of the deposit due to the Landlord's alleged failure to return it as required by the Act. The Tenant also applied to recover an overpayment of rent and compensation for other expenses.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on August 3, 2011. According to the Canada Post online tracking system the Landlord received this mail on August 11, 2011. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

Issue(s) to be Decided

1. Is the Tenant entitled to the return of her security deposit and if so, how much?
2. Is the Tenant entitled to recover an overpayment of rent?
3. Is the Tenant entitled to compensation for other expenses?

Background and Evidence

This tenancy was supposed to start on May 20, 2011. The Tenant said she was going to move into the Landlord's basement suite with and her roommate and share the rent of \$750.00 per month. The Tenant said the Landlord completed an "Intent to Rent" form and she paid him her share of pro-rated rent for the period, May 20 – 31, 2011 of \$148.00 and a security deposit of \$187.50. The Tenant said she did not get a receipt for the rent payment but claimed this payment was witnessed by her roommate (who did not give any evidence at the hearing).

The Tenant said her roommate went to get the keys from the Landlord on May 20, 2011 but claimed that she had been sexually assaulted. The Tenant said she went to the Landlord's home to speak to him and he denied the accusation of her roommate and advised her that he did not want her and her roommate renting from him. Consequently, the Tenant said she asked the Landlord to return her security deposit and rent payments but he refused to do so. As a result of the Landlord's actions, the

Tenant said she was rendered homeless and incurred additional expenses for fuel, storage and food.

The Tenant said she sent the Landlord her forwarding address in writing by registered mail on June 27, 2011. The Tenant said she did not give the Landlord written authorization to keep her security deposit and it has not been returned to her.

Analysis

At the end of the hearing the Tenant agreed to provide a copy of a registered mail receipt as proof that she had served the Landlord with her forwarding address in writing as well as a copy of a "Shelter Information" form. The Tenant was also advised **not** to send any further documents as evidence and that if she did so they would not be accepted. The Tenant did not provide a registered mail receipt with respect to serving the Landlord with her forwarding address in writing but instead provided an unsigned witness statement from her former roommate claiming to have witnessed her giving the Landlord rent.

In the absence of any corroborating evidence (ie. such a registered mail receipt) that the Tenant served the Landlord with her forwarding address in writing as required by s. 38(1) of the Act, I find that there is insufficient evidence to conclude that she has done so. Consequently, the Tenant's application for the return of her security deposit is dismissed with leave to reapply upon her providing proof that she has served the Landlord with her forwarding address in writing. I also find that there is insufficient evidence to conclude that the Tenant is entitled to recover an overpayment of rent. The Tenant provided no evidence of this at the hearing but instead provided an unsigned witness statement after the hearing. For similar reasons, I find that the Tenant has provided no evidence to support her claim for fuel, storage and additional food expenses and that part of her claim is dismissed without leave to reapply. The Tenant also sought to recover registered mail expenses, however the Act does not provide for the reimbursement of costs other than filing fees and as a result, that part of her claim is also dismissed without leave to reapply.

Conclusion

The Tenant's application for the return of a security deposit and an overpayment of rent are dismissed with leave to reapply. The Tenant's application for compensation for other expenses is dismissed without 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: November 07, 2011.

Residential Tenancy Branch