



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, O

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit and for other considerations.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on November 1, 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 with both the Landlord and the Tenant in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?
2. What other considerations are there?

Background and Evidence

This tenancy started on January 1, 2009 as a month to month tenancy. The tenancy ended October 31, 2010. Rent was \$650.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$325.00 in the start of January, 2009.

The Tenant said that he moved out of the rental unit on October 31, 2010 and gave the Landlord a forwarding address in writing by registered mail which the Landlord received on November 2, 2011 with the Application and Hearing package dated October 28, 2011. The Tenant said there was no move in or move out condition inspection reports completed.

The Tenant said he asked the Landlord for his security deposit back on December 8, 2010 and he has not received any part of the security deposit back to date.

The Tenant continued to say his claim is for the return of double his security deposit in the amount of \$650.00 as indicated by the Act and for a monetary claim of \$20,000.00 for other considerations. The Tenant said he had incurred losses due to moving expenses, damage to his belongings and theft of his possessions in the amount of \$20,000.00. The Tenant was asked if he had submitted evidence to prove the losses

actually happened and if he could provide evidence to verify the amount of the losses or damages. The Tenant said he submitted 55 pages of evidence, but there was no detailed itemization of the loss or damage and there is no verification of the losses or damages.

The Landlord said these issues were dealt with in a previous hearing of October 29, 2010 (file #759449). In that decision the Tenant's claim for the return of his security deposit and numerous other claims totaling \$20,000.00 were dismissed without leave by the previous Dispute Resolution Officer. The Landlord said that he did not understand why the Tenant has made this application and why the Tenant is allowed to reapply for the same monetary claims after the matter had been dismissed without leave to reapply.

The Landlord said he did receive a forwarding address in writing from the Tenant on November 2, 2011 and he has not returned the deposit as he understood the Tenant's claim for the return of the security deposit had been dismissed without leave to reapply in the decision of October 29, 2010.

The Tenant closed his remarks by saying that he feels he has incurred a loss due to the Landlord evicting him from the rental unit and that he is requesting his security deposit to be returned in accordance to the Residential Tenancy Act.

Analysis

Both parties made a number of references to the previous decision dated October 29, 2010 in which the Dispute Resolution Officer dismissed the Tenant's application without leave to reapply. Part of the application of October 29, 2010, was the return of the Tenant's security deposit and it was dismissed. The Dispute Resolution Officer did not make specific reference to the security deposit in his decision, but he dismissed the entire application including the Tenant's request for the return of the security deposit. Consequently I do not have the jurisdiction to overturn the previous decision and order that were both issued on October 29, 2010. Therefore I dismiss the Tenant's application for the return of the security deposit for the reason of lack of jurisdiction.

In addition it should be noted that the Residential Tenancy Branch Policy Guideline #35 says a Tenant may apply for the return of the security deposit as long as the Tenant gives the Landlord his forwarding address in writing within one year after the end of the tenancy. In this situation the Tenant said he gave the Landlord his written forwarding address on November 2, 2011 which is over the allowable one year limit from the end of

the tenancy which was November 1, 2010. Consequently the Tenant's right to the return of the security deposit is extinguished.

Further when an applicant is seeking a monetary order the applicant must prove a loss or damage actually exists, he must verify that loss with receipts or invoices, he must show the loss or damage is solely caused by the respondent in violation of the Act and he must show how he tried to minimize his loss. As the Tenant has not provided specific evidence to support his claim he has not met the requirements to prove a monetary claim. I find the Tenant has not established grounds to prove the monetary claim in the application due to lack of evidence.

Conclusion

The Tenant's application 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*.

Dispute Resolution Officer