



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for a return of his security deposit, doubled.

The tenant testified that he served the landlord with the Application for Dispute Resolution and Notice of Hearing by registered mail on December 13, 2011, and through testimony gave evidence of the tracking number; however, the landlord did not appear at the hearing. The tenant successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act (the “Act”) and the hearing proceeded in the landlord’s absence.

The tenant gave affirmed testimony and was provided the opportunity to present his evidence orally and in documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order under sections 38 and 67 of the *Residential Tenancy Act (the “Act”)*?

Background and Evidence

The tenant stated that the parties were in dispute resolution earlier and the landlord was ordered to return the tenant’s security deposit. A review of the records shows that a hearing was held on December 5, 2011, which resulted in a settlement between the parties that the landlord would return the tenant’s security deposit by December 31, 2011.

The tenant stated that he received the landlord's cheque, in the correct amount shortly after the hearing, but that cheque was dated for January 5, 2011. The tenant submitted that due to the age of the cheque, no financial institution would either cash or deposit the cheque.

The tenant then filed for dispute resolution on December 13, 2011. Thereafter, the landlord submitted a certified cheque to the tenant, in the correct amount, on December 20, 2011. The tenant stated that although he received the certified cheque, he did not attempt to collect on the cheque.

Analysis

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

I find that the landlord was required to return to the tenant the amount of \$262.50 by December 31, 2011. I further find that although the first cheque sent by the landlord was dishonoured due to the date on the cheque, the tenant then received the full amount via certified funds before the date required in the settled agreement.

I therefore find that the landlord complied with the Record of Settlement and that the tenant's application lacks merit.

Conclusion

Due to the above, I dismiss the tenant's application, **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: February 23, 2012.

Residential Tenancy Branch