



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

The tenant seeks recovery of his security deposit. Both parties appeared at the hearing of this matter and gave evidence under oath.

Issues(s) to be Decided

Is the tenant entitled to the orders sought?

Background and Evidence

The tenant testified that this tenancy ended on February 29, 2012. The tenant stated that he supplied his forwarding address to the building manager February 29, 2012 however, to date, his security deposit has not yet been returned to him. The tenant therefore claims the return of double his deposit as allowed under the Act.

The landlord attended and testified that he has not received the tenant's forwarding address.

Analysis

Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the deposit (section 38(6)). If the tenant does not supply his forwarding address in writing within a year, the landlord may retain the deposit.

The triggering event is the provision by the tenant of the forwarding address. In this case the tenant has failed to supply documentary evidence to show that he supplied his

forwarding address to the landlord in writing. Therefore the landlord's obligation to return the deposit or make application to retain it has not been triggered. However, as the landlord has appeared at this hearing having been served with an Application for Dispute Resolution filed by the tenant showing the tenant's current address the landlord now has 15 days from the date of this decision to either return the deposit to that address along with any applicable interest or to file an application seeking to retain the deposit.

Conclusion

The tenant's application for recovery of the deposit is pre-emptory and is therefore 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: April 11, 2012.

Residential Tenancy Branch