



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This conference call hearing was convened in response to the tenant's application for the return of the security deposit.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit?

Background and Evidence

The rental unit consists of an apartment in a multi-unit complex Pursuant to a written agreement, the month to month tenancy started on June 1, 2011. The rent was \$850.00 per month and the tenant paid a security deposit of \$425.00.

The tenant testified that he gave the landlord written notice to end tenancy on October 1st, 2011, and that he moved out of the unit at the end of that month. The tenant stated that he also gave the landlord his forwarding address in writing in the landlord's office on September 29, 2011.

The landlord testified that he received neither notice as claimed by the tenant.

Analysis

Section 38(1) of the *Residential Tenancy Act* provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the landlord received the tenant's forwarding address in writing.

The parties' testimony is at complete odds and not supported by evidence to confirm whose version is more credible than the other. Since the burden of proof is on the party making the claim, the tenant had the burden to prove his claim but did not provide more substantive evidence. Therefore I am not persuaded that the landlord received the tenant's forwarding address on September 29, 2011.

The landlord is hereby put on notice that he is deemed to now have received the tenant's forwarding address in writing on May 6, 2012, which is 5 days from the date of this decision. The landlord must either make an application for dispute resolution or return the security deposit no later than May 21, 2012.

Conclusion

The tenant's application 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: May 01, 2012.

Residential Tenancy Branch