



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, O

Introduction

This hearing dealt with an Application by the Tenant for a monetary order for return of the security deposit paid to the Landlord.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

Issue(s) to be Decided

Has there been a breach of section 38 of the Act by the Landlord?

Background and Evidence

The Tenant paid the Landlord a security deposit of \$350.00 on or about June 26, 2011. The Tenant vacated the rental unit on May 30, 2012.

The Tenant sent the Landlord an email with the forwarding address to return the security deposit to.

The Tenant did not sign over a portion of the security deposit.

The Landlord testified that the Tenant did not participate in the outgoing condition inspection report. The Landlord withheld a portion of the deposit and returned \$89.00 to the Tenant. The Landlord claims the Tenant damaged the rental unit and did not repair it before vacating.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find that the Tenant's Application was premature, as the Tenant has not complied with the Act in sending the Landlord the forwarding address to return the deposit to.

Under section 38 of the Act, the Landlord has to either return the deposit or apply for dispute resolution within 15 days of the later of the end of the tenancy or receipt of the forwarding address of the Tenant, to retain a portion of the security deposit.

Here the Tenant sent the Landlord the forwarding address in an email. The Act does not recognize email as a means of service. Furthermore, email does not comply with the requirement for the Tenant to have signed the document containing the forwarding address.

For the above reasons I dismiss the Application with leave to reapply. The parties are encouraged to attempt to resolve this matter before filing further claims.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: September 06, 2012.

Residential Tenancy Branch