



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 by the tenant filed on October 07, 2012 and accepted October 11, 2012, for an order for the return of their security deposit. The hearing was conducted by conference call. Both parties participated in the hearing.

The tenant testified that they served the landlord with the Notice of Hearing document on November 01, 2012, containing the date and time of the hearing, but did not serve the landlord with a copy of their application for dispute resolution nor any of the evidence provided to this hearing.

In addition to the lack of proper service of documents to the landlord, at the outset of the hearing, it was agreed by both parties that the tenancy ended September 30, 2012 - 7 days before the tenant filed their application for the return of their deposit, and that the landlord had not been provided a forwarding address for the tenant.

Analysis

It must be noted that Section 38 of the Act states that the landlord has 15 days from the end of the tenancy or 15 days after receiving the tenant's forwarding address in writing, to return the security deposit in full, or to make an application for dispute resolution to retain it. And, if the landlord fails to do either one of these, the tenant, on application, will be entitled to double the amount of the original security deposit. On the basis of the limited evidence in this matter, it is clear that the tenant filed their application prematurely, and it is ambiguous respecting the provision of a forwarding address; but, none the less the tenant did not prove they served the landlord with all of the documents

respecting this application to which the landlord is entitled. As a result of all the above, **I dismiss** the tenant's application, with leave to reapply.

If necessary, it is available to both parties to gain any required information as to if and how to proceed respecting their dispute by contacting one of the Residential Tenancy Branch offices, or consulting the online resources at www.rto.gov.bc.ca, as attached.

Conclusion

The tenant's claim **is dismissed**, with leave to reapply.

This Decision is final and binding on both parties.

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: November 21, 2012

Residential Tenancy Branch