



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD

Introduction

This hearing was scheduled in response to the tenant's application for a monetary order as compensation for the double return of the security deposit. Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement for this tenancy which began on April 14, 2012 and ended on or about August 3, 2012. Monthly rent was \$375.00. The Ministry made a \$187.50 payment directly to the landlord for the tenant's security deposit. The landlord's agent testified that the tenant asked her to waive the requirement for a security deposit and, instead, to apply the Ministry's payment against rent owed by his mother who lived in another unit. The landlord's agent testified that she agreed to the tenant's request, and that the tenant's mother otherwise paid the balance of rent owed for her unit. As a result, the landlord's agent testified that the money now considered by the tenant to be his security deposit, is no longer being held in trust. For his part, the tenant claims he cannot recall having made such a request of the landlord's agent and then entering into the agreement described by her during the hearing.

When the tenant moved to alternate accommodation he found that the Ministry was unwilling to provide him with funds for a security deposit. It appears that the Ministry considered it had already paid a security deposit with regard to the subject tenancy, and that a security deposit can be repaid to the tenant at the end of tenancy.

As to a forwarding address, the tenant testified that this was only provided to the landlord by way the application for dispute resolution served on the landlord.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Documentary evidence before me that is directly relevant to the circumstances of this dispute is limited to the tenant's application for dispute resolution. Accordingly, my findings arise principally out of the affirmed testimony of the parties.

I find that the Ministry made a \$187.50 payment directly to the landlord which was intended by the Ministry to be the tenant's security deposit. On a balance of probabilities, I also find that the landlord's agent agreed to the tenant's request to waive the requirement for a security deposit and, instead, to apply the Ministry's payment toward rent owed by the tenant's mother. In the result, I find that the funds intended by the Ministry to be a security deposit, effectively became a payment toward rent. Accordingly, I find that the tenant has not established entitlement to a reimbursement of \$187.50, and I further find that the doubling provisions set out in section 38 of the Act, which speaks to **Return of security deposit and pet damage deposit**, do not apply to this payment. The tenant's application must therefore be dismissed.

Conclusion

The tenant's application is hereby dismissed.

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: January 31, 2013

Residential Tenancy Branch

