Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for a return of her security deposit.

The tenant appeared; the landlord did not appear.

The tenant testified that she served the landlord with the Application for Dispute Resolution and Notice of Hearing by registered mail on January 28, 2013. The tenant supplied testimony of the tracking number of the registered mail, but was unable to verify that the mail had been received.

I will address my findings on proper service of the hearing documents later in this Decision.

Issue(s) to be Decided

Is the tenant entitled to a monetary order comprised of her security deposit?

Has the tenant submitted sufficient evidence to prove that the landlord was served the Notice of Hearing?

Background and Evidence

The only documentary provided by the tenant was a series of text messages between the tenant and the respondent; the tenant did not provide the tenancy agreement or the condition inspection report.

In response to my question as to the address used by the tenant for service of the application and hearing documents, the tenant stated the landlord had moved to a new office and that she found the address for the landlord on her website.

I questioned the tenant further, asking her to look at her tenancy agreement and read to me the listed landlord. The tenant responded by giving me a company name, a real estate office, not the individual named in her application as landlord.

Additionally the tenant said that she received a cheque from the landlord in February 2013, for the amount of her security deposit, $775.00. The tenant stated that she has not deposited the cheque as she had already filed for dispute resolution; the tenant said she still retains the cheque.

Analysis

The Residential Tenancy Act requires that a Notice of Hearing and application package must be served upon the respondent, the landlord in this case, in the manner set forth in section 89.

In the case before me, I find the tenant failed to submit proof the respondent/landlord listed in her application was the actual landlord for this tenancy or that the correct address was used for service of the hearing documents as required by section 89 of the Act.

Without proof that the landlord was served with the Notice of Hearing and the tenant's application and that the person listed as respondent was the actual landlord for this tenancy, I cannot proceed on the tenant's application.

Conclusion

I therefore dismiss the tenant's application, 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* and is being mailed to both the applicant and the respondent.

Dated: April 17, 2013

Residential Tenancy Branch