



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes MNSD, FF

Introduction

The tenant seeks recovery of his security deposit and the filing fee paid for this application.

The tenant gave evidence under oath.

Issues(s) to be Decided

Is the tenant entitled to the orders sought?

Background and Evidence

The landlord did not appear at this hearing. The tenant gave evidence that he served the landlord with his application for dispute resolution and notice of this hearing by way of mail sent February 20, 2013. The tenant testified that he did not think the landlord would appear at the hearing because he did not accept delivery of the application and notice. The tenant testified that he did not provide evidence of mailing these documents to the landlord because no one told him he had to do so. When asked for a tracking number the tenant responded that he did not retain that number, the tenant repeated that no one told him he would be required to present that number.

The tenant gave evidence that he has provided the landlord with his forwarding address on December 27, 2012 verbally yet his deposit has still not been returned to him.

Analysis

I am not satisfied that the tenant has provided sufficient evidence to show that he has served the landlord with this Application and the Notice of today's hearing.

Further, with respect to the tenant's claim for recovery of double the deposit paid, Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit.

If the landlord fails to comply with Section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the deposit (Section 38(6)). If the tenant does not supply his forwarding address in writing within a year, the landlord may retain the deposit.

The triggering event is the provision by the tenant of the forwarding address. In this case I find that not only am I not satisfied that the landlord has had notice of this claim and this hearing; I am also not satisfied that the tenant has proven that he provided his forwarding address in writing to the landlord.

As the tenant has been unsuccessful with this application I decline to award him recovery of the filing fee he has paid.

Conclusion

This matter 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: April 22, 2013

Residential Tenancy Branch