



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the Application for Dispute Resolution of the Applicant, seeking return of double the security deposit paid.

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

Is the Applicant entitled to return of the security deposit from this Respondent?

Background and Evidence

The Applicant testified that in February of 2013, he paid a portion of rent and a pet damage deposit of \$500.00 and a security deposit of \$500.00 to third party persons (the "Third Party"). The Applicant testified he was going to sublet the rental unit from the Third Party. As described below, this arrangement did not work out and the Applicant now seeks the return of his deposits paid.

The Respondent here is the owner of the property where the rental unit is located. The Respondent testified he did not know the Applicant until he went to the rental unit to evict the Third Party. The Respondent as landlord to the Third Party, who were his tenants, had received an order of possession and a monetary order in a earlier hearing against the Third Party. (The file number for this hearing is reproduced on the cover pages of this decision.) The Respondent was surprised to find the Applicant living in the rental unit as he testified that he had given no permission to the Third Party to sublet the rental unit.

According to the testimony of the Applicant the Third Party advised the Applicant they had directly deposited his \$1,000.00 for the pet damage deposit and security deposit into the Respondents bank account. The Third Party also testified to this in a hearing between the Applicant here and the Third Party. (The file number for this hearing is also reproduced on the cover pages of this decision.)

The Respondent testified that he was not informed by the Third Party this \$1,000.00 deposit into his account was for the Applicant's security or pet deposits. I note that the decision involving the Respondent and the Third Party records this \$1,000.00 deposit into the Respondent's account as being a rent payment toward outstanding rent.

Analysis

Based on the above, the evidence and testimony, I find that the Applicant's claim must be dismissed with leave to reapply. I find the Applicant has not named all the correct parties, and should likely have included the Third Party in this Application, even though he had a prior hearing with them.

I find the Applicant has insufficient evidence to prove this Respondent has the \$1,000.00 in deposits he is looking for. I find that it is just as likely the Third Party could still have these funds or have possibly used them as rent money to pay the Respondent. Regardless, due to the unusual circumstances here, I find the Applicant should have named both the Respondent and the Third Party together in this Application and the Applicant is granted leave to reapply to do so.

This decision is final and binding on the parties, unless 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 Act.

Dated: December 23, 2013

Residential Tenancy Branch

