



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, O

Introduction

This hearing was convened by way of a conference call in response to an Application for Dispute Resolution made by the Tenant for the return of all the security deposit and for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”). The Tenant also applied for ‘Other’ issues.

The Tenant appeared with a witness who was allowed to remain present during the duration of the hearing as only preliminary issues were dealt with in this hearing. The Landlord appeared for the hearing. No issues in relation to the service of the Notice of Hearing documents under the Act and the service of evidence by both parties under the Rules of Procedure were raised by any of the parties.

It was determined at the start of the hearing that this dispute and the resulting Tenant’s application were inextricably linked to the return of the Tenant’s security deposit. The Tenant claimed that he was in this tenancy with a Co-tenant (not named in this application) and that the Landlord had not returned their security deposit. The Tenant stated that he had asked for the return of the security deposit by email to the Landlord but had not provided the Landlord with a forwarding address as the Landlord had been given an address at the start of the tenancy and this is where it was assumed that the Landlord should have sent the security deposit at the end of the tenancy. The Landlord submitted that the Tenant for this application was not the person named on the written tenancy agreement and that only the Co-tenant was. However, the Landlord did not deny that the Tenant for this application was part of the tenancy in question.

Analysis

Section 38 of the Act requires that a Tenant provide the Landlord with a forwarding address in writing. This is to be done before the Landlord’s obligation to deal with the security deposit associated with the tenancy is released under the Act.

As a result, I find that it is not sufficient for the Tenant to require that the Landlord assume that an address, which was provided at the start of the tenancy by the Tenant to the Landlord, be used as a forwarding address for the purposes of Section 38 of the Act. As the Tenant has not provided sufficient evidence to show that requirements of the Act in relation to the forwarding address have been met, I find that the Tenant's application is premature.

However, as the Landlord agreed that the Tenant named on this application is part of the tenancy, the Landlord is hereby put on notice that he will be deemed to have received the decision 5 days after the date it was written and will have 15 days from that date of receipt (by April 8, 2014) to deal with the Tenants' deposit pursuant to Section 38 of the Act. The Tenant confirmed the address on his application as the forwarding address.

I refer to the Landlord and Tenant to informational resources available to the parties in relation to the return of the security deposit as follows, but not limited to; Section 35, 36 and 38 of the Act, Policy Guideline 17 to the Act, Fact Sheet 109 and Flow Chart PE-5. I also refer the parties to Policy Guideline 13 relating to Co-tenants.

Conclusion

For the reasons set out above, the Tenant's application is dismissed with leave to re-apply.

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: March 17, 2014

Residential Tenancy Branch

