



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *MNDC*

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for an order directing the landlord to return a rent cheque that was mailed in error to the landlord by the Ministry of Social Services, on behalf of the tenant. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The landlord acknowledged receipt of evidence submitted by the tenant. Both parties gave affirmed testimony.

### **Issues to be decided**

Did the landlord receive a rent cheque that he was not entitled to?

### **Background and Evidence**

The landlord testified that around the middle of June, 2013, the tenant viewed the basement suite that was available for rent and expressed interest in renting the unit, for July 01, 2013. As per requirements of the agency (Social Services), that was assisting the tenant, the landlord filled out an intent to rent form. The rent was \$1,000.00 per month and the tenant would require a roommate in order to afford the rent.

Shortly after, the tenant decided not to rent the unit and stated that he informed the landlord. The landlord denied having received any information about the tenant not wanting to rent the unit. A tenancy agreement was not entered into and the tenant did not pay a security deposit.

At the end of July, the landlord received a cheque in the amount of \$1,000.00, which represented rent for the month of August 2013. The cheque was issued by Social Services and the landlord deposited it into his bank account. The tenant stated that he requested the landlord to return the money to the issuing agency, so that the tenant could avail himself of his rental allowance, but the landlord refused to do so.

The tenant has applied for an order directing the landlord to return the funds to Social Services.

During the hearing, the landlord launched a tirade accusing the tenant of scamming the system. He also stated that his bank account that he used to deposit the cheques, did not allow him to withdraw cash. He even stated that he could possibly have to pay income tax on the funds received and wanted 'legal proof' that the funds were issued to him on behalf of the tenant.

### **Analysis**

Section 16 of the *Act* states that the rights and obligations of a landlord and tenant take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit. Once the security deposit is paid, the tenancy is considered started.

Based on these facts and pursuant to section 16 of the *Residential Tenancy Act*, I find that the landlord and tenant did not sign a contract. The tenant did not pay a security deposit and accordingly I find that the parties had not entered into a binding tenancy agreement. Therefore I find that the landlord is not entitled to rent. Since the agency that issued rent for the month of August 2013, on behalf of the tenant, did so in error, the landlord must return the funds received by him to the tenant.

The tenant has requested that the landlord be ordered to return the funds to the issuing agent and accordingly, I order the landlord to do so. On March 11, 2014, the tenant made an application requesting that the monetary order be issued in favour of the tenant as the Small Claims Court of British Columbia did not permit the tenant to pursue an order made in favour of Social Services. At the request of the tenant I have amended the order dated November 15, 2013.

### **Conclusion**

I order the landlord to return \$1,000.00 to the ~~agency (Social Services) tenant that issued the funds to him.~~

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: November 15, 2013

Amended: March 14, 2014

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Residential Tenancy Branch