



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

INTERIM DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing convened as a result of the Tenant's Application for Dispute Resolution in which she sought a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement as well as return of all of her security deposit.

The Tenant and the Landlord's agent, R.M., 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 oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Is the Tenant entitled to return of her security deposit?

Background and Evidence

R.M. testified that the Tenant did not pay a security deposit at the commencement of her tenancy. The current Landlord purchased the property in 2008 and at that time they had their accountant review the previous Landlord's records, reconcile the trust funds, and upon review of the records confirmed that there was no record of the security deposit being paid by the Tenant. R.M. testified that the accountants review and reconciliation occurred from August to November 2008.

The Landlord also noted that the Tenant, when vacating the rental unit, signed off on the Condition Inspection Report which clearly indicates no security deposit as being held.

The Tenant testified that she provided a security deposit when moving into the rental building in August of 1997. Introduced in evidence was a letter from the Tenant wherein she wrote that she sought return of the security deposit in the amount of "\$495.00 plus interest for 18 years". The Tenant also introduced in evidence a money order from the Royal Bank of Canada dated August 1, 1997 and in the amount of \$339.00.

The Tenant further testified that she paid \$339.00 on August 1, 1997, \$339.00 on August 29, 1997 and \$339.00 on September 9, 1997. She testified that she had only just found the latter two cheques or receipt of payment but that in any case they were evidence of her payment of the security deposit. The August 29, 1997 and September 9, 1997 cheques/receipts were not introduced in evidence.

R.M. testified that he was not provided with copies of the August 29, 1997 and September 9, 1997 cheques/receipts. He submitted that the Tenant is very smart, and is playing a game. He testified that the Tenant's claims in her letter dated August 14, 2014, wherein she writes that she moved out ahead of time, is simply false; instead, he says that the issues relating to the Tenant were many, and that ending the Tenant's tenancy amounted to an "ugly eviction". He repeatedly stated that her file is as thick as a phone book, and that it is simply not believable that she only just found the two other cheques/receipts from August and September 1997.

When asked when the Tenant initially moved into the rental unit, R.M. could not say. He also could not provide a copy of the original tenancy agreement, nor could he confirm whether a new agreement had been reached with the Tenant and the current Landlord. In response to direct questions as to the location of the tenancy agreement, R.M. stated that it "may have been lost in one of the previous arbitrations".

Analysis

While it is clear that the Tenant has an obligation under the *Residential Tenancy Branch-- Rules of Procedure* Rule 2.5, 3.1, and 3.14, and 3.19 to disclose her evidence prior to the hearing, if the two cheques/receipts the Tenant claims to have in her possession prove she paid a security deposit, they may be relevant to the determination of the issue before me.

Further, as R.M. conceded that the tenancy agreement may have been lost, it is possible the Landlord's record of the Tenant's payment of the security deposit could have similarly been lost.

At the end of the hearing I made an oral determination that the Tenant's Application for Dispute Resolution should be dismissed with leave for her to reapply. Upon reflection, and in the interests of administrative fairness I have determined that the Tenant's Application should in fact be **adjourned** to a new date. Accordingly, and on my own initiative, I correct my decision pursuant to section 78(1.1) and adjourn the matter to allow both parties the opportunity to provide further evidence on the issue of the security deposit.

Both parties must provide their evidence to the other party, and the Residential Tenancy Branch, as soon as possible and in any event no later than 14 days prior to the continuation date.

Conclusion

The Tenant's Application for Dispute Resolution is adjourned. Both parties must provide their evidence to the other party, and the Residential Tenancy Branch, no later than 14 days prior to the continuation date

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 05, 2014

Residential Tenancy Branch

