



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for the return of all or part of the security deposit.

The tenant attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on August 1, 2014, a Canada post tracking number was provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the landlord has been duly served in accordance with the Act.

Issue to be Decided

Is the tenant entitled to the return of the security deposit?

Background and Evidence

The tenancy began in the winter 2012. Rent in the amount of \$1,000.00 was payable on the first of each month. A security deposit of \$500.00 was paid by the tenant.

The tenant testified that he provided the landlord with his forwarding address in the application filed for dispute resolution. The tenant stated that he did not provide a written notice of the forwarding address in a separate, earlier document.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Under section 38 of the Act, the tenant is required to provide the landlord with a forwarding address in writing, and serve the document in a method permitted under section 88 of the Act.

In this case, the tenant did not provide the landlord with their forwarding address prior to filing their application. Once an application is filed it often makes the other party to believe that because the matter is already scheduled to be adjudicated, it is too late for them to file a claim against the deposit or return the deposit.

As a result, I find it appropriate in this case, to deem that the landlord has received the tenant's forwarding address 5 days after this decision is dated. The landlord will have 15 days from that date to deal with the deposit pursuant to section 38 of the Act.

Should the landlord fail to comply with section 38 of the Act, the tenant is at liberty to reapply for double of the return of the deposit.

Conclusion

The tenant's application is dismissed with leave to reapply.

The landlord is deemed to have been served with the tenant's forwarding address 5 days after the date this decision is dated. The landlord will have 15 days from that date to comply with section 38 of the Act.

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: January 27, 2015

Residential Tenancy Branch

