



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This was the hearing of an application by the landlord for a monetary order. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The respondent did not attend. The landlord did not submit any documentary evidence and did not provide documents to show that the respondent was served with the application for dispute resolution and Notice of Hearing. The applicant said she sent the application to the tenant by registered mail, but did not provide any documents to support her statement.

Issue(s) to be Decided

Is the landlord entitled to a monetary award and an order to retain a deposit?

Background and Evidence

In the application for dispute resolution the landlord said:

The deposit was a holding to become damage deposit. She chose not to rent the unit. I did all in my power to rent it and told her if it was rented before the 15th I would prorate a rebate. It was not rented. See attached. Am not asking for 2nd ½ of month's rent.

The landlord attached an excerpt from the Residential Tenancy Branch Guide for Landlords and Tenants referring to security deposits.

The landlord did not provide a copy of a tenancy agreement or any documents or communications recording a tenancy agreement or documenting the payment of a security deposit.

Analysis

The *Residential Tenancy Act* contains provisions with respect to security deposits. The Act provides by section 20 that a landlord may not require a security deposit at any time other than when the landlord and tenant enter into the tenancy agreement

The landlord has not provided proof that the respondent was served with the application and Notice of Hearing and she has not submitted any documentary evidence to establish that she was entitled to receive a deposit from the respondent.

Conclusion

In the absence of proof that the respondent was served with the application and in the absence of proof that the applicant was entitled to demand a deposit, the landlord's application to retain the deposit is dismissed with leave to reapply.

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: April 16, 2015

Residential Tenancy Branch

