



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROBERT H. ASH & ASSOCIATES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD

Introduction

The tenant applies for recovery of a security deposit.

Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that the tenant is entitled to the relief requested?

Background and Evidence

The rental unit is a one bedroom apartment in a thirty three unit apartment building.

The tenancy started in August 2010. It ended August 31, 2013 as the result of a notice from the tenant.

The landlord held a \$362.50 security deposit at the end of the tenancy.

The tenant testifies that he provided the landlord with a forwarding address in writing when he left on August 31, 2013. He says he left it in an envelope in the premises, along with the key to the apartment. He says he say the landlord's representative Mr. McL. Outside as he was leaving and told him about the envelope.

The tenant says he has a witness to the event. The witness was called on the telephone during the hearing but declined to participate until a time well after the scheduled time for the hearing.

The tenant's witness Ms. H.V. testifies that she is the tenant's new landlord and that he is a good tenant.

Mr. McL. for the landlord testifies that there was no envelope or key or forwarding address in the apartment after the tenant left. He denies that he had any conversation with the tenant outside at the time.

He acknowledges that the tenant's witness Ms. H.V. had called him for a reference before the tenant left.

He says that the tenant left damage and did not clean the premises.

In response the tenant says that Mr. McL. had his phone number and could easily have found out where he was living.

Analysis

Section 38 of the *Residential Tenancy Act* (the "*Act*") provides that a landlord must repay a security deposit or make application to keep it within 15 days after the end of a tenancy and receipt of the tenant's forwarding address in writing.

Section 39 of the *Act* says that a landlord may keep deposit money and the tenant's right to it is extinguished "if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy."

The *Act* does not impose an obligation on a landlord to take positive steps to obtain a forwarding address in writing or to otherwise search out a tenant for a forwarding address.

In the face of the competing testimony there is no basis upon which to prefer the tenant's version of events over that of the landlord's representative. The burden of proof initially resides with the tenant to show a forwarding address in writing was provided. He has not satisfied that burden.

Conclusion

The tenant's application is dismissed. His right to claim it has been extinguished by the passage of time.

This decision is rendered orally at hearing and 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: July 03, 2015

Residential Tenancy Branch

