



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This was a hearing with respect to the tenant's application for a monetary award. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlord did not attend. The landlord was served with the application and Notice of Hearing by handing a copy to an adult woman, presumably his wife, at the landlord's home at the rental property on February 4, 2015. I find that the landlord has been sufficiently served with the application and Notice of Hearing pursuant to section 71 of the *Residential Tenancy Act*.

Issue(s) to be Decided

Is the tenant entitled to the return of her rent payment in the amount of \$400.00?

Background and Evidence

The rental unit is a basement suite in the landlord's house in Delta. On January 4, 2015 the tenant agreed to rent the landlord's basement suite commencing January 15, 2015 at a monthly rent of \$800.00. The tenant intended to occupy the rental unit because she was separating from her husband. On January 11, 2015 the tenant spoke to the landlord by telephone and inquired whether the landlord would have any objection if the rental unit was occupied by her husband instead of the tenant as originally proposed. The landlord later responded that he and his wife wished to have a woman occupy the rental unit.

The tenant then told the landlord that she would occupy the rental unit as originally planned and that he needn't be concerned. Later on January 11, 2015 the landlord telephoned the tenant and informed her that he would no longer agree to rent the unit to her. He said that he would return her \$400.00 security deposit but he was going to keep

the \$400.00 rent payment for January. The tenant objected and requested the return of all her funds.

On January 12, 2015 the landlord attended at the tenant's home and returned the sum of \$400.00 in cash to the tenant's husband. The tenant's husband attempted unsuccessfully to reason with the landlord about the return of the rental payment.

The tenant has written to the landlord and requested the return of the \$00.00 rent payment before she filed this application for dispute resolution on January 31, 2015.

Analysis

The landlord failed to attend this hearing, although served with the application and Notice of Hearing. Based on the tenant's evidence including the written submissions given by the tenant and her husband, I find that the landlord has no valid basis either to cancel the tenancy agreement or to retain the tenant's rent payment. I find that the tenant is entitled to a monetary award in the amount of \$400.00 as claimed.

Conclusion

The tenant's application has been granted. The tenant is entitled to recover the \$50.00 filing fee for her application, for a total award of \$450.00 and I grant the tenant an order under section 67 in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that court.

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: August 13, 2015

Residential Tenancy Branch

