



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 by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order to return double the security deposit pursuant to Section 38; and
- b) To recover the filing fee for this application.

SERVICE

The landlord did not attend the hearing and the tenant provided evidence that he had served the landlord with the Application for Dispute Resolution by registered mail and with his forwarding address by putting it in his mail box. It was verified online that attempted delivery of the Application was unsuccessful and after several notices were left, it was returned to the tenant. I find the documents are deemed to be served pursuant to sections 88 and 89 and 90 of the Act for the purposes of this hearing.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that he is entitled to the return of double the security deposit according to section 38 of the Act?

Background and Evidence

Only the tenant attended the hearing and was given opportunity to be heard, to present evidence and make submissions. The tenant said he had paid a security deposit of \$500 on October 19, 2014 (receipt provided) and agreed to rent the unit for \$1000 a month. The tenant vacated the unit on March 1, 2015 and provided his forwarding address on March 5, 2015 but his security deposit has never been returned and he gave no permission to retain any of it.

When questioned, the tenant agreed he had lived in the same home as the landlord and shared kitchen facilities although he had his own washroom.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

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Analysis:

Section 4(c) of the Act states that the *Residential Tenancy Act* does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. I find the weight of the evidence in this case is that the tenant shared kitchen facilities with the landlord owner. Therefore, the Act does not apply and I find I have no jurisdiction in this matter.

Conclusion:

I find I have no jurisdiction in this matter.

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: September 03, 2015

Residential Tenancy Branch

