



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, RPP, FF, O

Introduction

This is an application brought by the tenant requesting an Order for the return of his full security deposit.

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicant has the right to an order for the return of his security deposit.

Background and Evidence

Both parties agree that a security deposit of \$425.00 was paid on September 24, 2014.

Both parties also agree that the tenancy ended on September 22, 2015.

The tenant testified that the landlord has not returned his security deposit even though he gave the landlord a letter requesting that the deposit be returned.

The tenant further testified that the landlord was given his forwarding address at the same time as the letter.

Landlord testified that the letter does not have the tenants forwarding address, although it does request the return of the security deposit.

In response to the landlord's testimony the tenant testified that he wrote his forwarding address on the amended application for dispute resolution that was served on the landlord at the same time as the letter requesting return of the security deposit.

Analysis

The tenant has applied for the return of his security deposit; however the tenant did not give the landlord a forwarding address in writing, as required by the Residential Tenancy Act, **prior** to applying for arbitration.

Further, the tenant did not include the forwarding address in the letter he wrote to the landlord requesting return of the security deposit, he simply wrote the address on his amended application for dispute resolution. It is my finding that is not reasonable to expect that the landlord would know that the address on the application for dispute resolution is the tenants forwarding address.

Therefore, pursuant to section 38 of the Residential Tenancy Act, at the time that the tenant applied for dispute resolution, the landlord was under no obligation to return the security deposit and therefore this application is premature.

Section 38 of the Residential Tenancy Act states:

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

At the hearing the tenant stated that the address on the amended application for dispute resolution is his present forwarding address; therefore the landlord is now considered to have received the forwarding address in writing as of today, November 4, 2015.

The landlord therefore has 15 days from today's date to either return the deposit or file for dispute resolution.

Conclusion

I therefore dismiss this claim with leave to re-apply.

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: November 04, 2015

Residential Tenancy Branch

