



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Community Builders Benevolence Group and #0955802 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an application by the tenant for an order for the return of double her security deposit. Both parties participated in the conference call hearing.

The tenant claimed that she faxed documents to the Residential Tenancy Branch on January 8, one business day before the hearing. As at the time of the hearing, the Branch had not processed these documents and the landlord testified that the tenant did not provide her with a copy of the documents. I advised the tenant that because she had not served the landlord with the documents and because she had not followed the Rules of Procedure in submitting her evidence 14 days before the hearing, I would not consider it when it was processed.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The tenant testified that the tenancy began in November 2012 and ended in November 2014. She claimed that at the outset of the tenancy, she paid a \$275.00 security deposit and testified that she gave her forwarding address to the landlord on July 5, 2015 by serving it on a staff member at the front desk of the building.

The agent of the corporate landlord testified that the building had changed hands several times since the tenancy began and she had no record of the tenant having paid a security deposit. The landlord indicated that she would be happy to repay the deposit if provided with proof that the tenant had paid.

Analysis

In order to establish her claim for double the security deposit, the tenant must prove that she (a) paid a deposit; (b) vacated the unit; and (c) gave the landlord her forwarding address in writing. The tenant did not provide evidence to corroborate her claim that she paid a deposit. Ordinarily, when a party is unable to prove their claim, the claim is dismissed with leave to reapply. However, in these circumstances, the landlord does not have the records which one would ordinarily expect the landlord to have and the tenant was unaware until receiving the landlord's evidence 11 days before the hearing that the landlord did not know that a deposit had been paid.

The landlord delayed 5 months before responding to the tenant to advise that they required proof that the deposit had been paid and under these circumstances, I find it appropriate to dismiss the claim with leave to reapply. I encourage the parties to discuss settlement if the tenant is able to find proof that the deposit was paid.

Conclusion

The claim 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: January 11, 2016

Residential Tenancy Branch

