



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Confide Enterprises Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF, OLC

Introduction

This was a hearing with respect to the tenant's application for the return of her security deposit. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlord did not attend. The tenant said that she served the landlord with the application by registered mail. She did not provide any documentary evidence to prove that registered mail was sent to the landlord.

Issue(s) to be Decided

Is the tenant entitled to the return of her security deposit?

Background and Evidence

The tenant applied for a monetary award in the amount of \$430.00. She said in her application that the landlord's representative verbally refused to return her deposit.

Analysis

The tenant did not submit any documentary evidence in support of her application. She did not provide a copy of her tenancy agreement and she did not submit any document, such as a copy letter or a copy of a move-out report to show that she provided her forwarding address in writing before she filed this application for the return of her security deposit.

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing,

whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

In order to make a claim for the return of a security deposit, the tenant is expected to provide evidence to support her claim. The expected evidence includes a copy of the tenancy agreement and proof that the tenant gave the landlord her forwarding address in writing.

In this case the tenant has not provided evidence to support her claim and she has not proved that the landlord was served with the application. The tenant did not have details of the registered mail sent to the landlord and in the absence of proof that the landlord was served, this application is dismissed with leave to reapply.

Conclusion

The application 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: April 07, 2016

Residential Tenancy Branch