



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by conference call in response to the Tenant's Application for Dispute Resolution (the "Application") filed on June 14, 2017 for the return of the Tenant's security deposit.

Preliminary Issues

The Tenant appeared for the hearing and provided affirmed testimony but did not provide any documentary evidence prior to the hearing. There was no appearance for the Landlord during the 20 minute hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service documents for this hearing by the Tenant.

The Tenant testified that the Landlord was served with a copy of the Application and the Notice of Hearing documents personally within three days of getting the documents on June 19, 2017. Therefore, I find the Landlord was served with notice of this hearing pursuant to Section 89(1) (a) of the *Residential Tenancy Act* (the "Act").

During the hearing, the Tenant explained that she was unsure whether the Landlord had been served with her forwarding address in writing and was unable to furnish any evidence of this.

Section 38(1) of the Act states that, within 15 days **after** the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an Application to claim against it.

In this case, I am not satisfied by the Tenant's oral evidence that the Landlord has been served with the Tenant's forwarding address in writing pursuant to the requirements of Section 38(1) of the Act.

Therefore, in this respect, I find the Tenant's Application is premature as she must serve the Landlord with a forwarding address in writing, and then allow for the 15 days to elapse before making the Application.

Conclusion

The Tenant has not provided the Landlord with a forwarding address pursuant to the Act. The Tenant's Application is dismissed 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 Act.

Dated: November 30, 2017

Residential Tenancy Branch