



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD MNDCT RPP

Introduction

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 1:55 p.m. in order to enable the landlord to call into this teleconference hearing scheduled for 1:30 p.m. on May 2, 2019. The tenant's mother attended the hearing as his authorized representative and gave sworn testimony. I will refer to the mother hereinafter as 'the tenant'. She was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant provided evidence that she served the Application for Dispute Resolution dated April 2, 2019 by registered mail but she forgot to put the landlord's address on it so it was returned to her. I find the documents were not legally served for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain refund of his security deposit of \$325 pursuant to section 38;
- b) To obtain return of his personal property pursuant to section 65;
- c) For compensation of \$400 for charges by the landlord.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that they are entitled to the refund of their security deposit and to the return of their personal property and compensation for other money paid? If so, what is the amount of compensation?

Background and Evidence

Only the tenant attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced September 1, 2019. Rent was \$1300 a month shared with the tenant and his cousin, each paid \$650. The tenant paid a security deposit of \$325. The tenant said he was never served a Notice to End Tenancy but the landlord verbally evicted him. She was angry at the condition of his unit and verbally abused him

several times and told him to get out in December 2018. He vacated about December 12, 2018 and came to his mother's house in a very emotional state.

He had left some of his belongings behind. When his mother called the landlord and requested entry to retrieve his belongings, she said "No. He did not give a Notice to end his tenancy so he owes me rent for January 2019". She demanded his mother pay her \$300 to get his belongings and \$100 for a key he lost. His mother sent the money by e transfer to her son and her son's friend gave the landlord the money. They picked up some items but there is still a chair and blanket left behind that they want to retrieve. The tenant also requests the return of his security deposit. There was no evidence that he had provided his forwarding address in writing to the landlord. On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

I advised the tenant in the hearing that we must have evidence that the landlord has been served with the Notice of Hearing either personally or by registered mail according to section 89 of the Act. In addition, I advised her that the landlord must be served with the tenant's new address in order to have his security deposit returned. Section 38 of the Act states that the landlord has 15 days from the later of the tenant vacating the premises and receiving the new address to either return the deposit or make an Application to claim against it. If the landlord does neither, the tenant is entitled to the refund of **twice the security deposit**.

Since there is insufficient evidence of legal service of the Application or forwarding address of the tenant, I dismiss this Application with leave to reapply. The tenant's mother said she was nervous so I tried to explain the process to her and how she had to make a new Application and serve it and the forwarding address on the landlord so the landlord would have notice of the new hearing date.

Conclusion:

The Application is dismissed with leave to reapply. No filing fee is awarded due to lack of success.

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: May 2, 2019

Residential Tenancy Branch