



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNSD FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for the amount of the security deposit, applicable accrued interest, double the security deposit, and recovery of the filing fee for the cost of the application. Both the tenant and the landlord participated in the teleconference hearing.

The landlord submitted documentary evidence but did not provide a copy to the tenant, and I therefore did not admit or consider that evidence in this decision.

Issue(s) to be Decided

Is the tenant entitled to recovery of the security deposit?

Background and Evidence

The tenancy began in June 2003. The tenant paid a security deposit of \$700 on July 1, 2003. The tenancy ended on December 1, 2008. The tenant gave his forwarding address to the landlord over the phone but did not provide his forwarding address in writing. The tenant submitted that the landlord received the tenant's forwarding address in writing when the tenant served the landlord with the hearing package for this hearing.

Analysis

Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit.

In this case, the tenant did not provide his forwarding address in writing. I do not accept the tenant's submission that the landlord was deemed to have received the tenant's written forwarding address, so as to satisfy the requirements under section 38, at the time that the landlord received the hearing package. Therefore, the tenant's application in this matter is premature.

The tenant is not entitled to recovery of the filing fee for the cost of this application.

Conclusion

The tenant's application is dismissed with leave to reapply.

The landlord has 15 days after the date of receiving this decision to either return the tenant's security deposit or file an application for an order to retain the security deposit as compensation for a monetary claim. If the landlord fails to take either of these steps, the tenant may re-apply for recovery of the security deposit.

Dated February 20, 2009.