

DECISION

Dispute Codes MNDC

Introduction

This is an application filed by the Tenant for a monetary order for money owed in the overpayment of rent to the Landlord after her Tenancy ended.

Both parties attended the hearing by conference call and gave direct testimony.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

Both parties have attended the hearing and neither has submitted any evidence.

The Tenant claims that she gave verbal notice to the Landlord to end her tenancy on March 3, 2011. The Landlord disputes this stating that the Tenant gave notice to move verbally around March 15, 2011. The Tenant states that she moved out on April 28, 2011. The Landlord confirms this. The Tenant stated that her monthly ministry rent cheque of \$500.00 for May 2011 from the ministry was sent in error to the Landlord. The Landlord confirms that he received it, but that no proper notice was given by the Tenant as a Co-Tenancy exists and the other legal occupant still resides at the rental unit. The Landlord has applied this amount to the regular monthly rent due as he considers that the Tenancy agreement is still in effect. The Tenant disputes this stating that no co-tenancy exists, but that she was forced to sign a ministry letter of intent to rent listing the co-tenant. The Tenant states that the Landlord retains a \$250.00 security deposit. The Landlord disputes this stating that the Tenant has only paid a \$165.00 security deposit. It was determined that the Tenant's witness, S.R. was subletting her Tenancy to the applicant.

Analysis

Both parties have attended the hearing by conference call and both have confirmed filing no evidence. I am satisfied that both were properly served. Both parties rely solely on direct evidence given during the hearing. I find that both parties have provided conflicting evidence that cannot be supported. The burden of proof falls to the applicant

in this case and as such, I find that the Tenant has failed to establish her claim. The Tenant's application is dismissed.

Conclusion

The Tenant's application is dismissed.

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: August 18, 2011.

Residential Tenancy Branch