



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Remi Realty Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD

Introduction

This is an application brought by the tenant requesting a monetary order in the amount of \$425.00, and recovery of her \$50.00 filing fee.

The applicant(s) testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on May 13, 2015 however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent(s) have been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicant has established monetary claim against the respondents, and if so in what amount.

Background and Evidence

The applicant testified that, at the beginning of the tenancy, she paid a security deposit of \$475.00.

The applicant testified that the tenancy ended on March 31, 2015 and on that date she verbally gave the landlord or forwarding address, which he wrote down.

The applicant further testified that she also contacted the landlord's office and verbally gave her a forwarding address over the phone.

The applicant further states that she did not receive her security deposit back until April 20, 2015, five days past the 15 day time limit.

The applicant is therefore requesting an order that the landlord be required to pay double the security deposit, minus the amount already paid.

Analysis

It is my decision that the applicant does not have a claim for double her security deposit.

First of all, the landlord is not even required to return a security deposit until the tenant supplies the landlord with a forwarding address in writing. In this case the tenant testified that she has only given a forwarding address verbally, and although she claims the landlord wrote it down she has provided no evidence in support of that claim and therefore, in the absence of any testimony from the landlord, the applicant has not met the burden of proving that claim.

Secondly, it is my finding that even if the landlord had received the forwarding address in writing on March 31, 2015, the landlord returned the security deposit within the required time limit. The Residential Tenancy Act requires that the landlord return the deposit within 15 days of the end of the tenancy, or the date they receive a forwarding address in writing, whichever is the later. In this case the landlord mailed the security deposit by registered mail on the 15th day.

Section 38(1) of the Residential Tenancy Act states:

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

Further since section 38 states that the landlord must repay as provided in subsection (8), we must consider subsection (8), which states:

(8) For the purposes of subsection (1) (c), the landlord must use a service method described in section 88 (c), (d) or (f) [*service of documents*] or give the deposit personally to the tenant.

Section 88(d) of the Residential Tenancy Act states:

(d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;

Therefore by mailing the security deposit cheque to the tenant on the 15th day, it is my finding that the landlord has complied with the time limits set out under the Act.

Conclusion

This application is dismissed in full without 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: October 19, 2015

Residential Tenancy Branch

