

DECISION

Dispute Codes: MNR, MNDC, MND, MNSD and FF

Introduction

These applications were brought by both the landlord and the tenant.

By application of August 26, 2009, the landlord seeks a Monetary Order for unpaid rent or utilities, damage to the rental unit, damage or losses under the legislation or rental agreement, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off.

By application of December 8, 2009, the tenant seeks return of his security deposit, a monetary order for loss of personal belongs and recovery of the filing fee for this proceeding.

Despite having made application, the landlord did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, the landlord's application is dismissed without leave to reapply.

Issues to be Decided

This matter requires a decision on whether the tenant is entitled to a Monetary Order for return of the security deposit and for the loss of personal property.

Background and Evidence

According to the tenant, this tenancy began on November 1, 2008 and ended on August 31, 2009. Rent was \$825 per month and the landlord holds a security deposit of \$400 paid on or about November 1, 2009.

During the hearing, the tenant conceded that he had not given notice to end the tenancy in writing as required under section 45 of the *Act*, but stated that he had given verbal notice late.

He stated that he had moved most of his belongings by August 17, 2009 but that he intended to return and clean the rental building but was unable to do so as the locks had been changed. He said that he still had some personal belongings in the rental unit but he provided no documentary evidence.

Analysis

As to the tenant's claim for return of the security deposit, I find that the landlord's application to make claim on it of August 26, 2009 was within the 15 days allowed under section 38(1) of the *Act* and disposition of the security deposit was suspended pending the outcome of this hearing. Therefore, the security deposit remains to be dealt with under section 38 of the *Act*.

As to the tenant's claim for loss of personal items, as the tenant has provided no evidence to substantiate the existence of the items in question or proof that their loss

was attributable to the landlord , this part of his claim is dismissed without leave to reapply.

Conclusion

1. As the landlord did not appear, her application is dismissed without leave to reapply;
2. The tenant's claim for loss of personal property is dismissed for want of evidence without leave to reapply;
3. The security deposit remains to be disposed of in compliance with section 38 of the *Act*.