

DECISION

Dispute Codes MND MNR MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for damage to the unit, site or property, for unpaid rent or utilities, to keep all or part of the security deposit, and to recover the cost of the filing fee from the Tenant.

No one was in attendance for the applicant Landlord however the Tenant and her legal counsel appeared at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order under sections 38, 67, and 72 of the *Residential Tenancy Act*?

Background and Evidence

There was no additional evidence or testimony provided in support of the Landlord's claim as no one attended on behalf of the landlord.

Analysis

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing. In the absence of the applicant Landlord, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the applicant Landlord called into the hearing during this time. Based on the aforementioned I find that the Landlord has failed to

present the merits of their application and the application was dismissed, without leave to reapply.

The Tenant confirmed the Landlord has not returned her security deposit of \$725.00 which was paid to the Landlord on September 4, 2008. Having dismissed the Landlord's application the Landlord is not entitled to retain the Tenant's security deposit, or portion thereof. Therefore I hereby order the Landlord to return the Tenant's security deposit of \$725.00 plus interest of \$3.54.

Conclusion

I HEREBY DISMISS the Landlord's application, without leave to reapply.

A copy of the Tenant's decision will be accompanied by a Monetary Order for **\$728.54**. (\$725.00 + \$3.54) The order must be served on the Landlord and is enforceable through the Provincial Court an order of that Court.

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 10, 2010.

Dispute Resolution Officer