



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MND, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for damage to the rental unit; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

The hearing was scheduled to commence at 1:30 p.m. on October 06, 2010 but did not commence until 1:40 p.m. on October 06, 2010. The Tenant was present at the commencement of the hearing but the Landlord was not. The hearing concluded at 1:57 p.m. but the Landlord had not appeared by that time.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to compensation for damage to the rental unit; to retain all or part of the security deposit paid by the Tenant; and to recover the filing fee for the cost of this Application for Dispute Resolution.

Background and Evidence

The Agent for the Tenant stated that the Tenant originally lived in this rental unit with his father, who was the original tenant of the rental unit. The Agent for the Tenant stated that the Tenant entered into a tenancy agreement with the Landlord on July 01, 2009, after his father passed away.

The Agent for Tenant stated that the Tenant's father paid a security deposit of \$382.00 on April 01, 1997 and that this deposit was transferred to the new tenancy on July 01, 2009.

The Agent for the Tenant stated that the tenancy ended on May 15, 2010 and that the Tenant provided the Landlord with his forwarding address, via a TTY telephone, on May 16, 2010. The Tenant is certain that the Landlord received his forwarding address as

the Landlord used the Tenant's forwarding address in this Application for Dispute Resolution.

Analysis

I find that the Landlord failed to diligently pursue the Application for Dispute Resolution and I therefore dismiss the Landlord's application for compensation for damage to the rental unit; to retain the security deposit; and to recover the filing fee without leave to reapply.

Conclusion

Section 38(1) of the *Residential Tenancy Act (Act)* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit plus interest or make an application for dispute resolution claiming against the deposits.

In these circumstances the Tenant has not yet provided the Landlord with his forwarding address in writing. Once the Tenant provides the Landlord with his forwarding address in writing the Landlord has fifteen days to return the security deposit plus interest to the Tenant. The Landlord no longer has the right to file an Application for Dispute Resolution within fifteen days of receiving the forwarding address, as that right has been extinguished by this decision.

For the benefit of both parties, the parties are advised that interest of \$50.11 has accrued, as of October 07, 2010 and the amount of interest due will remain unchanged until at least December 30, 2010.

I remind both parties of section 38(6) of the *Act*, which stipulates that if a landlord does not comply with subsection 38(1), the Landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

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 07, 2010.

Dispute Resolution Officer