



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This was the hearing of an application by the landlord for a monetary order and an order to retain the tenant's security deposit. The hearing was conducted by conference call.

Issues(s) to be Decided

Is the landlord entitled to a monetary order in the amount of \$400.00?

Background and Evidence

The tenant called in to participate in the hearing but the landlord did not attend although it was the landlord's application. The conference call was kept open for more than 10 minutes, but the landlord did not call in during that period.

In the application for dispute resolution the landlord alleged that the tenant was to move into the rental unit on August 1, 2010, but that he improperly refused to do so, saying that the rental unit was unliveable. The landlord requested a monetary order in the amount of \$400.00, being one half month's rent and he asked to retain the tenant's \$400.00 security deposit in satisfaction of the claim.

The tenant testified that he refused to move into the rental unit because it was unclean, infested with cockroaches and still contained items left behind by a former tenant. He gave the landlord his forwarding address and requested the return of his deposit on August 1, 2010.

Analysis and conclusion

In the absence of an appearance by the landlord by 1:10 P.M. the application is dismissed without leave to reapply. At the hearing the tenant requested the return of his security deposit.

Residential Tenancy Policy Guideline 17 provides policy guidance with respect to security deposits and setoffs; it contains the following provision:

RETURN OR RETENTION OF SECURITY DEPOSIT THROUGH ARBITRATION

1. The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the Act, on:
 - a landlord's application to retain all or part of the security deposit, or
 - a tenant's application for the return of the deposit unless the tenant's right to the return of the deposit has been extinguished under the Act. The arbitrator will order the return of the deposit or balance of the deposit, as applicable, whether or not the tenant has applied for arbitration for its return.

In this application the landlord requested the retention of the security deposit in satisfaction of his monetary claim. Because the claim has been dismissed in its entirety without leave to reapply it is appropriate that I order the return of the tenant's security deposit; I so order and I grant the tenant a monetary order in the amount of \$400.00. This order may be registered in the Small Claims Court and enforced as an order of that court.

Dated: December 03, 2010.
