

DECISION

Dispute Codes:

MND, MNSD, MNDC

Introduction

This Dispute Resolution hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for \$1,663.00 for damages left by the tenant and an order to retain the tenant's \$700.00 security deposit in partial satisfaction of the claim.

Issue(s) to be Decided

The issue to be determined based on the testimony and the evidence is whether the landlord is entitled to monetary compensation under section 67 of the *Act* and if so can the landlord retain the tenant's security deposit in partial satisfaction of the claim.

Background and Evidence

This application was set to be heard at 9:00 a.m. The notice of hearing sent to each party required them to join in the conference call at the time of the hearing by calling in to the number provided and entering the participant code identified.

Only the respondent tenant called in. The line was held open for 10 minutes but the applicant landlord failed to appear and the hearing was closed at 9:10 a.m.

Analysis

A security deposit is held in trust for the tenant during the tenancy. Under section 38 of the *Act*, within 15 days after the later of the day the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit to the tenant or make an application for dispute resolution claiming against the security deposit. In this instance I find that the landlord made an application to keep the deposit within 15 days of the end of the tenancy.

However, as the landlord did not attend the proceeding, the landlord's application seeking to keep the deposit has not been successful and must be dismissed. The landlord is therefore not entitled to keep the tenant's security deposit and it must be refunded to the tenant forthwith.

Conclusion

Based on the testimony and evidence I hereby dismiss the landlord's application in its entirety without leave to reapply.

I hereby issue a monetary order in favour of the tenant for \$700.00. This order must be served on the landlord and, if necessary, can be enforced through Small Claims Court..

This decision is final and binding and 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: August 24, 2011.

Residential Tenancy Branch