



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD MNDC

Introduction

This hearing was convened in response to cross applications - an application by the landlord **and** an application by the tenant.

The tenant filed an application on September 14, 2011 pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. Return of the security deposit – Section 38

The landlord filed an application on October 11, 2011 pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. A Monetary Order for compensation for loss – unpaid utilities - Section 67

This matter was set for hearing at 9:30 a.m. on this date. The tenant did not attend. The landlord was present at the scheduled start time of the hearing, and was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to the monetary amount claimed?

Background and Evidence

The undisputed testimony of the landlord is that the tenancy started May 01, 2010 and ended April 30, 2011. At the start of the tenancy the landlord collected a security deposit in the amount of \$675. In May 2011 the landlord returned a portion in the amount of \$189.36 and retained \$485.64, which they retain to this date. The landlord now applies for compensation for unpaid utilities in the same amount. The landlord submitted a copy of the tenancy agreement which states the tenant is responsible for all utilities, as well as a letter addressed to the tenant dated May 09, 2011 outlining to the tenant that they owed \$485.64 in utilities, which the tenant has not paid to date. The

landlord also submitted copies of the utilities invoices in support of their application and that the landlord incurred the cost of the amount claimed.

Analysis

The tenant did not attend the hearing. The Act states, in part, that dispute resolution proceedings must commence at the scheduled time and that a Dispute Resolution Officer may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of an appearance by the tenant to defend their application their application **is dismissed without leave to reapply.**

The landlord applies for compensation of \$485.64 in unpaid utilities. I accept the landlord's testimony and documentary evidence submitted as establishing that they incurred the amounts claimed and that they are entitled to compensation in the amount claimed of **\$485.64.**

As I have dismissed the tenant's application, and the landlord holds an amount belonging to the tenant in the equivalent amount to their entitlement of \$485.64, it is appropriate that I off-set the landlord's award by permitting the landlord to retain the amount they hold, in full satisfaction of the landlord's monetary claim.

Conclusion

The tenant's application and monetary claims on application are **dismissed**, without leave to reapply.

I Order that the landlord may retain the balance of the security deposit of \$485.64 as off-set to their monetary award, in full satisfaction of their claim.

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: December 05, 2011

Residential Tenancy Branch