



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order to keep all or part of the security deposit, for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement, and to recover the cost of the filing fee from the Tenants.

The respondent Tenants appeared at the teleconference hearing however no one appeared on behalf of the applicant Landlord despite this hearing being convened to hear the matters pertaining to the Landlord's application.

Issue(s) to be Decided

1. Is the Landlord entitled to retain the security deposit?

Background and Evidence

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

The Tenants affirmed that they agreed to allow the Landlord to withhold \$20.00 from the security deposit of \$550.00; however the Landlord has not returned the balance owed of \$530.00.

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.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing 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 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. Accordingly, in the absence of any evidence or submissions from the applicant Landlord I order the application dismissed without liberty to reapply.

In this case the Landlord has not proven entitlement to retain the Tenants' security deposit, or portion thereof in the amount of \$530.00 (\$550.00 – \$20.00).

Conclusion

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

The Tenants will be issued a Monetary Order in the amount of **\$530.00**. This Order is legally binding and must be served upon the Landlord.

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 17, 2012.

Residential Tenancy Branch