



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNDC, MNSD

Introduction

A hearing was conducted by conference call. The applicant was not present at the time the hearing was scheduled to begin. Both respondents were present and ready to proceed. I adjourned the matter and monitored the telephone bridge number for the next 10 minutes. The applicant still had not appeared. I then proceeded with the hearing. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on August 1, 2011. The rent at the time the tenancy ended was \$980 per month payable on the first day of each month. The tenants paid a security deposit of \$475 at the start of the tenancy. The tenancy ended June 1, 2013 when the parties conducted a walk through.

The tenants provided the landlord with their forwarding address in writing at the end of the tenancy. They failed to provide their suite number. However, the tenant talks to the

landlord some time later and they provided the landlord with their suite number. The Application for Dispute Resolution/Notice of Hearing was subsequently sent to the tenant's correct address by registered mail.

Analysis

The applicant has the burden of proof. The applicant failed to attend the hearing. Both respondents were present. **As the applicant failed to present any evidence at the hearing I ordered that the application be dismissed without liberty to re-apply.**

Policy Guideline #17 includes the following statement:

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.

The landlord's claim to keep the security deposit has been dismissed without liberty to re-apply. I determined the tenant's right to the return of the deposit has not been extinguished. The Policy Guideline provides that an arbitrator is to order the return of the security deposit where the landlord's claim has been dismissed whether or not the tenant has applied. **As a result I ordered that the landlord pay to the tenants the sum of \$475.**

It is further Ordered that this sum be paid forthwith. The respondents are given a formal Order in the above terms and the applicant must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

Dated: August 08, 2013

Residential Tenancy Branch

