



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with a landlord's application for a Monetary Order for damage to the rental unit, site or property; damage or loss under the Act, regulations or tenancy agreement; and authorization to retain the security deposit and pet damage deposit. Both parties appeared at the hearing.

Preliminary and Procedural Matters

The tenant testified that he was served with the Notice of Hearing and Fact Sheets but did not receive the Landlord's Application for Dispute Resolution or evidence with the package mailed to him.

I noted that I was not in receipt of any evidence from the landlord either. The landlord stated his evidence was served upon the Branch as part of a previous dispute. I was provided the file number for the previous dispute.

The previous dispute was a tenant's application for return of the deposits and the Arbitrator dismissed it with leave to reapply on November 5, 2013. The Arbitrator also put the landlord on notice that the landlord would have 15 days to deal with disposition of the deposits. The landlord filed this Application for Dispute Resolution within 15 days.

The importance of serving evidence upon the Branch and the other party is provided in the Fact Sheets provided in the hearing package. The information contained in the Fact Sheets is supported by section 59 of the Act which requires an applicant to provide sufficient particulars.

As the landlord was informed during the hearing, each case stands on its own merits, thus, any evidence a party intends to rely upon must be served upon the Branch and the other party for that particular dispute. It is not upon the Branch, the Arbitrator or the

other party to search for evidence that may have arrived under a previous dispute in anticipation it will be relevant for the current proceeding.

The parties were provided the opportunity to discuss and negotiate a settlement agreement but they were unable to reach a mutually satisfactory agreement. Therefore, I have proceeded to make a decision in this matter.

In this case, there was no documentary or photographic evidence from the landlord and the only details of dispute provided by the landlord were that he was seeking “monetary compensation for the balance of damages and out of pocket expenses caused by the tenants” in the total amount of \$2,990.00 as indicated on the Application for Dispute Resolution. Given this lack of supporting evidence and insufficient particulars, I dismiss the landlord’s Application for Dispute Resolution.

Since the landlord’s claims have been dismissed and the landlord is still holding the tenant’s deposits, in keeping with Residential Tenancy Policy Guideline 17: *Security Deposit and Set-Off*, I order the landlord to return the deposits to the tenant without further delay.

It was undisputed that the landlord is in possession of a \$425.00 security deposit and a \$425.00 pet damage deposit. I was further satisfied that the tenant had not extinguished his right to return of the deposits since it was the landlord that had extinguished his right for claims for damage by failing to fulfill his statutory obligation to complete a move-in condition inspection report. Therefore, I provide the tenant with a Monetary Order in the sum of \$850.00 to serve upon the landlord and enforce as necessary.

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: March 26, 2014

Residential Tenancy Branch

