



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD, MNDC, MNR, FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution by the landlord under the *Residential Tenancy Act* (the *Act*) to obtain a monetary order and an order to retain the security deposit in partial satisfaction of their monetary claim and to recover the filing fee.

The landlord was provided with a copy of the Notice of a Dispute Resolution Hearing after filing their application dated March 03, 2014. The landlord, however, did not attend the hearing set for this date at 9:30 a.m. The phone line remained open for ten minutes and was monitored throughout this time. The only parties to call into the hearing were both tenants. The tenants requested the return of their security deposit.

Analysis

Following the ten minute waiting period, the application of the landlord was **dismissed, without leave to reapply.**

In respect to the tenant's request, *Residential Tenancy Policy #17 - Security Deposit and Set Off*, in relevant part, states as follows:

RETURN OR RETENTION OF SECURITY DEPOSIT THROUGH ARBITRATION

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 tenants confirmed the landlord's particulars that the tenancy began February 28, 2014, and that the payable rent was \$2200.00 per month, and that at the outset of the tenancy the landlord collected a security deposit in the amount of \$1100.00, which the landlord still retains in trust.

As the applicant landlord applied to retain the security deposit and failed to attend the hearing, and their application has been dismissed, it is only appropriate that I return to the tenant the security deposit of **\$1100.00** the landlord holds in trust.

Conclusion

The landlord's application **is dismissed, without leave to reapply.**

I grant the tenant an Order under Section 67 of the Act for the amount of **\$1100.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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: June 18, 2014

Residential Tenancy Branch

