



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MND, MNSD, MNR, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act*, for a monetary order for loss of income, unpaid utilities, for the cost of cleaning, painting, repairs and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the claim.

Despite having made application and having served the tenant with the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing.

The conference call remained open for ten minutes and the landlord did not call in. Since the applicant landlord did not attend the hearing, the landlord's application is dismissed. During the waiting time the tenant requested for the return of the security and pet deposits.

Background and Evidence

Based on the tenancy agreement filed into evidence by the landlord, I find that the tenancy started in November 2013 for a fixed term of one year. The tenant ended the tenancy prior to the end date of the fixed term and moved out on March 31, 2014.

The monthly rent was \$950.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$475.00 and a pet deposit of \$475.00. The tenant stated in her written submission that she had provided the landlord with a forwarding address on March 31, 2014. The landlord made this application on April 14, 2014 which is within the legislated time frame of 15 days.

Analysis

Residential Tenancy Policy Guideline 17 provides policy guidance with respect to security deposits and setoffs; it contains the following provision:

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.

In this application the landlord requested the retention of the security deposit in partial satisfaction of the monetary claim. Because the claim has been dismissed in its entirety without leave to reapply it is appropriate that I order the return of the tenant's security deposit. I so order and I grant the tenant a monetary order in the amount of \$950.00. This order may be registered in the Small Claims Court and enforced as an order of that court.

Conclusion

I grant the tenant a monetary order in the amount of **\$950.00**.

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: August 20, 2014

Residential Tenancy Branch

