



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD FF

Introduction

This hearing dealt with monetary claims by the landlord and the tenant. The hearing first convened on March 30, 2015. On that date, the landlord's agent and the tenant called in to the teleconference hearing. I discovered that I did not have the landlord's evidence in either of the two files, and I adjourned the hearing.

The hearing reconvened on May 20, 2015. On that date, only the tenant called in to the teleconference hearing. As the only participant who called into the hearing was the tenant, who was ready to proceed with both files, I dismiss the landlord's claim without leave to reapply.

Issue(s) to be Decided

Is the tenant entitled to recovery of the security deposit?

Background and Evidence

The parties entered into a written agreement for a tenancy to begin on September 1, 2014. Prior to that date, the tenant paid the landlord a security deposit of \$575. On August 31, 2014 the tenant gave the landlord written notice that they would not move in to the unit because it was uninhabitable.

In the hearing the tenant stated that he attended the rental unit on August 31, 2014 to return the keys to the landlord, and at that time the landlord was already showing the unit to prospective new tenants. The tenant stated that he asked for the return of his security deposit, and the landlord had the tenant's forwarding address in writing.

Analysis

I find that the tenant is entitled to recovery of the security deposit. The landlord's application to keep the security deposit has been dismissed, and the landlord therefore has no entitlement to the deposit.

As the tenant's application was successful, he is entitled to recovery of the \$50 filing fee for the cost of his application.

Conclusion

The landlord's application is dismissed.

I grant the tenant an order under section 67 for the balance due of \$625. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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 29, 2015

Residential Tenancy Branch

