



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

While the tenant attended the hearing by way of conference call, the landlord did not, although I waited until 1349 in order to enable the landlord to connect with this teleconference hearing scheduled for 1330.

The tenant testified that he served the evidence to the landlord by delivering it to the mailbox of the address set out for service on the landlord's application. On the basis of this evidence, I am satisfied that the landlord was served with the evidence pursuant to section 88 of the Act.

Disposition of Landlord's Claim

Rule 10.1 of the Rules of Procedure provides that:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Accordingly, in the absence of any evidence or submissions from the landlord and in the absence of the landlord's participation in this hearing, I order the landlord's dismissed without leave to reapply.

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the tenant, not all details of the submissions and / or arguments are reproduced here.

This tenancy began 1 September 2014. The parties entered into a fixed-term tenancy that was set to end 31 August 2015. The tenancy ended when the tenant vacated the rental unit on or about 24 April 2015.

The rental unit was a bedroom. The tenant was the only individual who occupied the rental unit. The tenant had access to shared kitchen and bathroom facilities. The landlord is not the owner of the residential property.

No condition move in or move out inspections were conducted in respect of this tenancy.

Monthly rent for the duration of the tenancy was \$600.00. The landlord collected a security deposit in the amount of \$300.00 at the beginning of the tenancy. The tenant testified that the landlord has not returned any portion of this security deposit.

The landlord filed his application on or about 7 July 2015. The tenant provided his forwarding address to the landlord on or about 8 July 2015 by text message and on 29 November 2015 by letter with his evidence.

The tenant testified that he did not authorize the landlord to make any deductions from the security deposit. The tenant testified that there are no prior orders of the Residential Tenancy Branch in respect of this tenancy.

Analysis

Residential Tenancy Policy Guideline, “17. Security Deposit and Set off” provides guidance in this situation:

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.

There is no evidence before me that indicates that the tenant's right to the security deposit has been extinguished or that the landlord was entitled to retain any amount from the tenant's security deposit. As there is a balance in the amount of \$300.00, I order that the balance of the tenant's security deposit shall be returned to the tenant.

Conclusion

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

I issue a monetary order in the tenant's favour in the amount of \$300.00. The tenant is provided with a monetary order and the landlord(s) must be served with this order as soon as possible. Should the landlord(s) fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial 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 subsection 9.1(1) of the Act.

Dated: December 17, 2015

Residential Tenancy Branch

