



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASCENT REAL ESTATE MANAGEMENT CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover its filing fee for this application from the tenants pursuant to section 72.

While the tenants' agent attended the hearing by way of conference call, the applicant did not, although I waited until 1345 in order to enable the applicant to connect with this teleconference hearing scheduled for 1330.

Analysis

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 applicant and in the absence of the applicant's participation in this hearing, I order the application dismissed without leave to reapply.

The agent testified that the landlord retained a portion of the tenants' security deposit.

In most circumstances, *Residential Tenancy Policy Guideline*, “17. Security Deposit and Set off” would govern this situation:

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 depositunless 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 agent was unable to provide details regarding the amount of the security deposit still held by the landlord or whether or not the tenants had provided written authorization to deduct a specific amount at the end of the tenancy. As it is unclear what if any amount should be returned to the tenants, I decline to order return of the balance of the security deposit in this hearing. The tenants may apply to recover the balance of their security deposit by filing their own application for dispute resolution should they elect to do so.

Conclusion

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

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: March 31, 2016

Residential Tenancy Branch