



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPN, MND, MNR, MNSD, FF

Introduction

This matter was set for hearing by telephone conference call at 1:30 p.m., in response to the Landlords' Application for Dispute Resolution (the "Application") filed on April 14, 2016. The Landlords applied for a Monetary Order for: damage to the rental unit; unpaid rent; to retain the Tenants' security deposit; and to recover the filing fee. The Landlords also applied for an Order of Possession.

The telephone line was left open for ten minutes to allow the Applicant Landlords to dial into the hearing. However, the only participants calling into the hearing during this time were both Respondent Tenants. The Tenants provided affirmed testimony during the hearing. The Tenants confirmed that they had been served with notice of this hearing by the Landlords by registered mail. The Tenants confirmed that they had not provided any evidence prior to the hearing and had not received any evidence from the Landlords. There was no evidence submitted prior to this hearing which was before me from the Landlords for this file.

The Tenants testified that they had given the Landlords written notice on February 27, 2016 to end the tenancy on March 31, 2016. The Tenants testified that the Landlords were provided with their forwarding address on their notice to end tenancy and this was also verbally provided by the Tenants to the Landlords during the move out inspection of the rental unit on April 2, 2016. As the tenancy had ended, I dismissed the Landlords' Application for an Order of Possession.

I accepted the Tenants' oral evidence that the tenancy had ended on March 31, 2016 and the Landlords had been provided with a forwarding address in writing prior to the ending of the tenancy which they used to file the Application on April 14, 2016. Therefore, I find that the Landlords applied to keep the Tenants' security deposit of \$775.00 within the 15 day time limit provided by Section 38(1) of the *Residential Tenancy Act* (the "Act").

The Tenants explained that they disputed the Landlords' monetary claim and wanted their security deposit back. The Tenants confirmed that they had not given any written authority for the Landlords to keep or deduct from their security deposit.

Analysis & Conclusion

The Residential Tenancy Branch Rules of Procedure state that 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.

As the Landlords served the required documents for this hearing in accordance with Section 89(1) (c) of Act, and then failed to appear for the scheduled hearing, and the Respondents appeared and were ready to proceed, I dismiss the Landlords' Application **without** leave to reapply.

As the Landlords are now barred from re-applying, the Landlords are ordered to return the Tenants' security deposit back pursuant to Section 38(1) (c) and 38(8) of the Act. The Tenants are issued with a Monetary Order in the amount of \$775.00. The Tenants must serve a copy of the order to the Landlords. If the Landlords fail to make payment the Tenants may then enforce the order in the Small Claims Division of the Provincial Court of as an order of that court. Copies of the order are attached to Tenants' copy of this Decision.

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: October 05, 2016

Residential Tenancy Branch