



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Tenants: MNSD, FFT Landlords: MNDCL-S, MNDL-S, FFL

Introduction and Preliminary Matters

On July 27, 2018, 2018, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) to obtain a Monetary Order for the return of the security deposit, and to be compensated for the cost of the filing fee.

On August 13, 2018, the Landlords submitted an Application for Dispute Resolution under the Act. The Landlords requested a Monetary Order for Damages and for unpaid utilities, and to be compensated for the cost of the filing fee. The Landlords’ Application was crossed with the Tenants’ Application and the matter was set for a participatory hearing via conference call.

The Tenant attended the conference call hearing; however, the Landlords did not attend at any time during the 33-minute hearing. The Tenant testified that he served the Landlords with the Notice of Hearing by sending it via registered mail on July 30, 2018. I find that the Landlords have been duly served with the Notice of Hearing in accordance with Section 89 the Act.

I also noted that the Landlord was emailed a copy of the Notice of a Dispute Resolution Hearing regarding their own Application, by the Residential Tenancy Branch on August 15, 2018. The phone line remained open for 33 minutes and was monitored throughout this time. The only person to call into the hearing was the Tenant who indicated that they were ready to proceed. I have confirmed that the file audit records indicate that the Landlords did not make any attempt to cancel the hearing prior to the start. I have also confirmed that the date, time and codes for the teleconference were correct and that the only persons showing on the teleconference system was the Tenant and myself.

After keeping the phone line open for 33 minutes, I dismissed the Landlords’ Application without leave to reapply as the Landlords failed to attend the hearing to present the merits of their Application or, at the very least, cancel their scheduled hearing in advance of the hearing.

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Landlords did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the testimony and evidence as presented by the Tenant.

The Tenant stated that the Landlord, after receiving the Tenants' Notice of Dispute Resolution, returned the security deposit, minus \$87.53, to the Tenants. The Tenant understood and accepted that the Landlord deducted a BC Hydro bill from the security deposit. Although the Tenant was interested in pursuing reimbursement for the filing fee, the Tenant decided that he would withdraw his Application as a result of the Landlords' Application being dismissed.

Analysis

I find that the Landlords' Application for Dispute Resolution has been abandoned. I accept the Tenants' decision to withdraw their Application.

Conclusion

I dismiss the Landlords' Application for Dispute Resolution without leave to reapply. I have not made any findings of fact or law with respect to the Application. The Tenants have withdrawn their Application. Both of these Applications are now considered closed.

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: November 29, 2018

Residential Tenancy Branch