



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT, FFT

Introduction

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

- authorization to obtain a return of the security deposit, pursuant to section 38;
- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The applicant tenant did not attend this hearing, which lasted approximately 13 minutes. The respondent landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The hearing began at 1:30 p.m. with only me present. The landlord called in late at 1:37 p.m., stating that she thought the RTB would be calling her. The hearing ended at 1:43 p.m.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to correct the spelling of the landlord's first name. The landlord consented to this amendment during the hearing.

Preliminary Issue – Dismissal of Tenant's Application

Rule 7.3 of the RTB *Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the 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.

In the absence of any appearance by the tenant, I order the tenant's entire application dismissed without leave to reapply.

Preliminary Issue – Residential Tenancy Policy Guideline 17

Residential Tenancy Policy Guideline 17 states the following, in part (emphasis added):

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 dispute resolution for its return.

As per the above, I am required to deal with the tenant's security deposit because the tenant has applied to obtain a return of it, even though the tenant has not appeared at this hearing.

The tenant did not appear at this hearing to support his application to obtain a return of his security deposit and his application was dismissed without leave to reapply. The landlord confirmed that she obtained a security deposit of \$500.00 from the tenant and that she continues to retain it. Over the period of this tenancy, no interest is payable on the landlord's retention of the tenant's deposit. In accordance with section 38 of the *Act* and Residential Tenancy Policy Guideline 17, I find that the landlord is entitled to retain the tenant's entire security deposit in the amount of \$500.00.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

I order the landlord to retain the tenant's entire security deposit in the amount of \$500.00.

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 30, 2019

Residential Tenancy Branch