



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, MNDL-S, MNRL-S, FFL

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

- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- a monetary order for unpaid rent, for damage to the unit, site or property, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement in the amount of \$4,000 pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

This matter came to a hearing on March 10, 2020 (the "**March Hearing**"). Landlord YS and the tenant both attending that hearing. I issued a written decision following the March Hearing and adjourned this matter to be heard at the current hearing time (the "**April Hearing**"), on procedural grounds. No submissions as to the substance of the landlords' application were made at the March Hearing.

Neither landlord attend the April Hearing, although I left the teleconference hearing connection open until 11:12 am in order to enable the landlords to call into this teleconference hearing scheduled for 11:00 am. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

Rule of Procedure 6.6 states:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application.

This is the landlords' application. As such, they bear the onus to prove their claim. As they failed to attend the hearing, I find that they have failed to discharge their evidentiary burden to prove that they are entitled to the order sought. Pursuant to Rule of Procedure 7.4, the landlords (or their agent) must attend the hearing and present their evidence for it to be considered. As this did not occur, I have not considered any of the documentary evidence submitted by the landlord to the Residential Tenancy Branch in advance of the hearing.

I dismiss their application with leave to reapply.

I make no findings of fact as to the merits of this application. I note, however, that the landlords have claimed against the security deposit. From this I infer that they retain some or all of the tenant's security deposit. Although I make no order regarding the security deposit, I remind the landlords of their obligations regarding the security deposit set out at section 38 of the Act.

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: April 20, 2020

Residential Tenancy Branch