



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

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

- a monetary order for compensation of \$3,600.00 under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The applicant landlords did not attend this hearing, which lasted approximately 12 minutes. The respondent 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 waited until 9:42 a.m. to enable the landlords to participate in this hearing scheduled for 9:30 a.m. 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 person who had called into this teleconference.

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

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

Preliminary Issue – Dismissal of Landlords' Application

Rule 7.3 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* states:

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 landlords, I order the landlords' 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 landlords have applied to retain it. The landlords did not appear at this hearing to support their application to retain the tenant's security deposit and their application was dismissed without leave to reapply.

The tenant confirmed that she paid a security deposit of \$900.00 to the landlords. She stated that she made a previous application at the RTB to obtain a return of \$838.00, as she allowed the landlords to retain the remaining \$62.00. She claimed that she was awarded double the value of \$838.00, totalling \$1,676.00, from a previous RTB decision made on June 2, 2020. She provided a copy of this decision. The file number for that application appears on the front page of this decision.

Therefore, as the tenant's security deposit has already been dealt with in a previous RTB decision, I do not make any orders regarding same, as it is *res judicata*.

Conclusion

The landlords' entire 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 22, 2020

Residential Tenancy Branch