



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AN Ventures
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL, MNDCL, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Landlord under the Residential Tenancy Act (the Act) on October 13, 2020, and an Amendment to the Application for Dispute Resolution (the Amendment) filed under the Act on November 10, 2020, seeking:

- \$650.00 in unpaid rent;
- Compensation for monetary loss or other money owed in the amount of \$226.00; and
- Recovery of the filing fee.

The hearing was convened at 1:30 P.M. on February 5, 2021, by telephone conference call and was attended by the Tenant, who provided affirmed testimony. No one attended on behalf of the Landlord. I verified that the hearing information in the Notice of Dispute Resolution Proceeding provided to the Landlord by the Branch was correct, and although the line remained open while the phone system was monitored for 17 minutes, no one attended the hearing on behalf of the Landlord.

Further to this, the Tenant testified that they had concerns about service of the Notice of Dispute Resolution Proceeding on them by the Landlord, as it was not until they received an auto-generated email from the Branch on January 22, 2021, reminding them of evidence submission deadlines, that they became aware of the hearing, at which point they checked their junk mail folder and discovered a previously undiscovered email from the Landlord containing the Notice of Dispute Resolution Proceeding, which is how they attended the hearing.

Rule 7.1 of the Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) states that the dispute resolution hearing will commence at the scheduled

time unless otherwise set by the arbitrator. As the Tenant and I attended the hearing on time and ready to proceed, and there was no evidence before me that the Application had been withdrawn by the Landlord or that the parties had agreed to reschedule the hearing, I commenced the hearing as scheduled at 1:30 P.M. on February 5, 2021. Rule 7.3 of the Rules of Procedure states that 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 reapply. As the Landlord failed to appear or have an agent appear on their behalf at the hearing of their own Application, I therefore dismiss the Landlord's Application and Amendment in their entirety, without leave to reapply pursuant to rule 7.3 of the Rules of Procedure.

In any event, given the testimony of the Tenant with regards to service of the Notice of Dispute Resolution Proceeding on them, I also have concerns that the Notice of Dispute Resolution Proceeding, which includes the Application and the Notice of Hearing, may not have been served on them as required by the Act and the Rules of Procedure, despite the order for substituted service granted to the Landlord on November 6, 2020.

Although the Landlord did not seek retention of the Tenant's security deposit or pet damage deposit as part of their Application, and I therefore cannot deal with whether the Tenant is entitled to the return of all, some, none, or double the amount of those deposits as part of this Application, the Tenant stated that they had paid a \$325.00 security deposit and a \$325.00 pet damage deposit to the Landlord, neither of which had been returned to them. As the Tenant acknowledged that they had not yet provided the Landlord with their forwarding address in writing, I advised them that the requirements regarding the return of the deposits had not yet been triggered under section 38(1) of the Act. I advised the Tenant that if they wished to have any portion of their deposits returned, they would need to provide the Landlord with their forwarding address in writing within one year of the end date for the tenancy, at which point, the Landlord would have 15 days to either return the deposits to the Tenant in full, or file a claim against them with the Branch, unless the Tenant had extinguished their right to the return of the deposits under section 24(1) or 36(1) of the Act. Finally, I advised the Tenant that if the Landlord did not comply with the requirements set out under section 38(1) of the Act, they would be barred from filing a claim against either deposit and required to pay the Tenant double the amount of the security deposit, pet damage deposit, or both, as applicable, pursuant to section 38(6) of the Act.

Conclusion

The Landlord's Application and Amendment seeking recovery of \$650.00 in unpaid rent, compensation for monetary loss or other money owed in the amount of \$226.00, and recovery of the \$100.00 filing fee 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 Act.

Dated: February 5, 2021

Residential Tenancy Branch