



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, for order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

Only the female tenant SK appeared. The landlord did not appear, although the phone system was monitored for ten minutes.

SK stated they have been separated from the co-tenant; however, they are acting on their behalf. SK stated they were not served with the landlord's application and only found out about the hearing as they had received an email notification from the Residential Tenancy Branch.

In this case, I note the landlord's application was filed on June 11, 2021, which shows the service address for the tenants as the rental unit; however, the tenants were not residing in the rental unit at the time the landlord made their application. The landlord's application shows the tenancy ended on May 3, 2021. I find without any evidence from the landlord, I do not find the tenants were duly served with the landlord's application in accordance with the Act. Therefore, I dismiss the landlord's application with leave to reapply.

In this case, I have not ordered the return of the security deposit to the tenants. The tenants have not provided the landlord with their forwarding address in writing as required by section 38 of the Act.

I should note the tenants are incorrect in an email they sent to the landlord where they state that a security deposit is only for the purpose of damages to the rental unit. That information is not correct as a security deposit is held in trust and may be claimed against for any breach of the Act or tenancy agreement, that results in a loss, such as unpaid rent, loss of rent, other money owed or damages.

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: January 05, 2022

Residential Tenancy Branch