



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the landlord: MNDL-S MNRL-S MNDCL-S FFL
For the tenants: MNETC FFT

Introduction

This hearing was convened as a result of an Application for Dispute Resolution (application) by both parties under the *Residential Tenancy Act* (Act). The landlord applied a monetary claim of \$4,686.87 for unpaid rent or utilities, for damages to the unit, site or property, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee. The tenants applied for a monetary claim of \$24,100.00 for 12 months' compensation for the landlord failing to comply with the reason stated in a 2 Month Notice to End Tenancy for Landlord's Use of Property (2 Month Notice) and to recover the cost of the filing fee.

The landlord, SD (landlord) attended the teleconference hearing. The hearing process was explained to the landlord and an opportunity was given to ask questions about the hearing process. The tenants did not attend the hearing although the tenants were provided with a copy of the Notice of a Dispute Resolution Hearing dated August 24, 2021 after filing their application on August 6, 2021. The tenants, however, did not attend the hearing set for this date, Friday, February 18, 2022, at 1:30 p.m. Pacific Time. The phone line remained open for 41 minutes and was monitored throughout this time. The only party to call into the hearing was the landlord. Following the 10-minute waiting period, **the application of the tenants was dismissed without leave to reapply** pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3. The hearing continued with consideration of the landlord's application.

The landlord testified that they served the tenants by registered mail, each address with their own registered mail package and each with their own registered mail tracking

number. The landlord was given 40 minutes to locate the registered mail tracking numbers and was unable to locate the registered mail tracking numbers.

Both parties have a right to a fair hearing, and the tenants would not have been aware that the landlord made an Application for Dispute Resolution, without having been served with the landlord's Application for Dispute Resolution, Notice of Hearing and related evidence (Package). Therefore, **I dismiss** the landlord's application **with leave to reapply** due to a service issue, as the landlord failed to provide the registered mail tracking numbers for the two Packages. The landlord is at liberty to reapply as a result.

I do not grant the filing fee for either party.

Regarding the \$2,000.00 in combined deposits, comprised of a \$1,000.00 security deposit and \$1,000.00 pet damage deposit, I accept the landlord's testimony that the male tenant sent a text to the landlord to confirmed they were surrendering their combined deposits towards damages to the rental unit. As a result, I do not order the return of the combined deposits. The landlord may retain both deposits pursuant to section 62(3) of the Act.

Preliminary and Procedural Matter

The landlord was informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The landlord was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the landlord was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The landlord had no questions about my direction pursuant to RTB Rule 6.11.

Conclusion

The tenants' application has been dismissed without leave to reapply, as the tenants failed to attend the hearing to present the merits of their application.

The landlord's application has been dismissed with leave to reapply, due to a service issue.

The combined deposits are not required to be returned to the tenants and may be retained by the landlord pursuant to section 62(3) of the Act.

This decision will be emailed to both parties at the email address provided on the respective applications before me.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 18, 2022

Residential Tenancy Branch