



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

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

- a monetary order for damages and loss pursuant to section 67;
- authorization to retain all or a portion of the tenant's security and pet damage deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

This matter was set for hearing by telephone conference call at 1:30 pm on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the respondent.

Rule 7.3 of the Rules of Procedure provides as follows:

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 reapply.

Therefore, as the applicant did not attend the hearing, and the respondent was present and ready to proceed, I dismiss their claim in its entirety without leave to reapply.

Residential Tenancy Policy Guideline 17 provides that:

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.

In the present case the tenant gave undisputed evidence, reflected in the landlord's application that a security deposit of \$750.00 and pet damage deposit of \$750.00 were paid and are still held by the landlord.

Therefore, pursuant to sections 38 and 67 of the Act and in accordance with Policy Guideline 17 I issue a monetary award in the tenant's favour in the amount of \$1,500.00, the value of the security and pet damage deposit for this tenancy.

Conclusion

The landlord's application is dismissed in its entirety without leave to reapply.

I issue a monetary order in the tenant's favour in the amount of \$1,500.00. The landlord must be served with this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: May 27, 2022

Residential Tenancy Branch