



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD

Introduction

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

- a monetary order of \$3,475.00 for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to obtain a return of the tenants' security deposit of \$1,350.00, pursuant to section 38.

The three applicant tenants did not attend this hearing, which lasted approximately 11 minutes. The respondent landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

This hearing began at 1:30 p.m. and ended at 1:41 p.m. I monitored the teleconference line throughout this hearing. 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 landlord and I were the only people who called into this teleconference.

The landlord confirmed his name and spelling. He provided his email address for me to send this decision to him after the hearing. He stated that he owns the rental unit. He provided the rental unit address.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* does not permit recording of this hearing by any party. At the outset of this hearing, the landlord affirmed, under oath, that he would not record this hearing.

I explained the hearing process to the landlord. He had an opportunity to ask questions. He stated that he was ready to proceed with this hearing. He did not make any adjournment or accommodation requests.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenants' application.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenants' application to add a monetary claim for the return of the tenants' security deposit of \$1,350.00. In the description of their monetary order for compensation for damage or loss in their application, the tenants asked for the return of their security deposit of \$1,350.00, but they did not specifically check off the separate section. I find no prejudice to either party in making this amendment.

Preliminary Issue – Dismissal of Tenants' 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 tenants, I order the tenants' 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 tenants' security deposit because the tenants asked for its return. The tenants did not appear at this hearing to provide evidence regarding their application to obtain a return of the security deposit. The tenants' entire application was dismissed without leave to reapply, as noted above.

In their application, the tenants indicated that they paid a security deposit of \$1,350.00 to the landlord and that this tenancy ended on September 1, 2021.

The landlord testified that the tenants paid a security deposit of \$1,350.00 to him, he returned the full amount to the tenants in cash, and he received a written letter, dated September 1, 2021, from the tenants confirming the above return.

Accordingly, I find that the tenants are not entitled to the return of their security deposit of \$1,350.00, because it has already been returned to them in full by the landlord.

Conclusion

The tenants' 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: September 02, 2022

Residential Tenancy Branch