



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **MNDL-S, FFL**

Introduction

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- A monetary order for damages caused by the tenant, their guests to the unit, site or property and authorization to withhold a security deposit pursuant to sections 67 and 38; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

Both the landlord and the tenant attended the hearing. As both parties were present, service was confirmed. The parties each confirmed receipt of the application and evidence. Based on the testimonies I find that each party was served with these materials as required under RTA sections 88 and 89.

Preliminary Matter

The tenant did not acknowledge receiving a copy of the landlord’s amendment to the original application for dispute resolution.

The landlord filed an amendment to her original application for dispute resolution with the Residential Tenancy Branch on October 30, 2023 and testified she served the tenant with the amendment three days before that, on October 27, 2023.

Residential Tenancy Policy Guideline 23 states that the applicant must follow a sequence to amend their application. This sequence requires that the applicant submit the amendment to the Residential Tenancy Branch before serving the respondent with a copy of it, at least 14 days before the hearing.

The landlord testified that on October 27th, she sent the amendment to the tenant via registered mail to the tenant’s former residential address as she did not have the

tenant's forwarding address. Section 88 of the Act does not allow a landlord to serve a tenant with documents at a former residence.

As the landlord did not follow the correct procedure for amending her application, and since the amendment was not served in accordance with section 88 of the Act, I declined to hear the amended application. The landlord's original application was heard during this hearing.

Settlement Reached

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. At the outset of the hearing the parties indicated their intention to settle their dispute. The parties achieved the following resolution of their dispute with the following terms:

The parties agree that the landlord may retain the tenant's full security deposit of \$750.00 in full satisfaction of the landlord's original application for dispute resolution.

Both parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute. As the parties resolved matters by agreement, I make no findings of fact or law with respect to the application before me.

The decision to order payment of the filing fee is discretionary upon the arbitrator and since this matter was settled by agreement, I decline to order that the filing fee be recovered.

Conclusion

The parties agree that the landlord may retain the tenant's full security deposit of \$750.00 in full satisfaction of the landlord's original application for dispute resolution.

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: November 14, 2023

Residential Tenancy Branch