



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenants: MNSDS-DR, FFT
For the landlord: MNRL-S, FFL

Introduction

The tenants filed an Application for Dispute Resolution (the “tenants’ Application”) on October 21, 2020. They seek a monetary order for the return of the security deposit they paid at the start of this tenancy. Additionally, they seek reimbursement of the application filing fee.

The tenants’ Application here was filed initially as a Direct Request. The matter proceeded by way of a participatory hearing because the tenants’ Direct Request application cannot be considered by that method when there is a cross-application by the landlords in place.

At the outset of the hearing, the landlord stated they did not know of the tenants’ Application that was crossed with their own. The tenants provided that they served the Notice of this Hearing to the landlord’s business address that was provided on the tenancy agreement originally signed by the parties in early 2020. The tenants provided that they sent this information to the landlord on October 27, 2020 – this is the same day the Notice for this hearing was system-generated in this office.

I reviewed each document prepared in advance by the tenants for this hearing, describing the document by identifiers such as dates and/or content. The landlord confirmed they knew what document was being referred to. By this method, I ensured there was no information not disclosed to the landlord that would be prejudicial in this hearing.

The landlord filed an Application for Dispute Resolution (the “landlord’s Application”) on November 19, 2020 seeking an order to recover money for unpaid rent and the Application filing fee. The tenants confirmed receipt of the landlord’s application and the landlord’s prepared evidence. The tenants provided their evidence to the landlord in response to this hearing notice of the landlord.

There was a previous hearing between these parties regarding a prior landlord application for recovery of rent amounts owing, applying the security deposit against that amount. As the Arbitrator on that matter, I issued a decision dated November 5, 2020 dismissing that other landlord application. I denied the landlord leave to reapply on that matter. The tenants provided a copy of that decision in their evidence here.

In the prior application, the landlord asked for the following:

- recovery of unpaid rent for April 1 to June 29, 2020: \$4,746
- monetary compensation for furniture disposal and replacement of appliances: \$1,060

In this landlord’s Application for this hearing, the landlord asks to keep the \$800 security deposit for these three months of unpaid rent. This also compensation toward the tenants’ replacement of the rental unit appliances.

I find the issues in both applications are identical. I decided on these matters in a prior hearing and made the decision dated November 5, 2020. I am bound by the principle of *res judicata*. This means the prior decision is conclusive as to the rights of the parties and constitutes an absolute block to a subsequent Application involving the same claim.

For this reason, I dismiss the landlord’s Application here, without leave to reapply.

Because the landlord’s Application is dismissed, they have no right to any portion of the security deposit they have withheld since the beginning of the tenancy. For this reason, the tenants are successful in the application for the return of the deposit. In line with this, I order the landlord to return the security deposit to the tenants.

To give effect to this, I grant the tenants a monetary order pursuant to s. 67 of the *Act* for the amount of \$800. Because the tenants were successful in their Application, I grant them reimbursement of the \$100 Application filing fee.

Conclusion

The landlord's Application is dismissed, without leave to reapply.

I order the landlord to pay the tenants the amount of \$900 which includes \$800 for the amount of the security deposit and the \$100.00 filing fee. I grant the tenants a monetary order for this amount. This monetary order may be filed in the Provincial Court (Small Claims) 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 s. 9.1(1) of the *Act*. Pursuant to s. 77, this order is final and binding.

Dated: February 19, 2021

Residential Tenancy Branch