



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Dispute Codes MNDL-S MNDCL-S FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (application) by the landlord seeking remedy under the *Residential Tenancy Act* (Act) for a monetary claim of \$4,312.41 for damages to the unit, site or property, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to retain the security deposit towards any amount owing, and to recover the cost of the filing fee.

The landlords were provided with a copy of the Notice of a Dispute Resolution Proceeding dated May 19, 2021 (Notice of Hearing) when they made their application. The landlords; however, did not attend the hearing set for this date, Friday, November 5, 2021 at 1:30 p.m. Pacific Standard Time (PST). The phone line remained open for 12 minutes and was monitored throughout this time. The only person to call into the hearing was the tenant, GA and their support person, CA.

Preliminary and Procedural Matters

The tenant 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 tenant 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 tenant 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 tenant had no questions about my direction pursuant to RTB Rule 6.11.

In addition, the tenant confirmed their email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Analysis

RTB Rules 7.1 and 7.3 apply and state:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

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.

Given the above and following the 10-minute waiting period, the application of the landlords was **dismissed without leave to reapply**. This decision does not extend any applicable time limits under the Act.

The filing fee is not granted as the landlords did not attend the hearing to present the merits of their claim.

The tenant was asked when they vacated the rental unit and if they ever provided their written forwarding address to the landlord. The tenant testified that they vacated the rental unit on October 12, 2020 and have not provided their written forwarding address to the landlords. Section 39 of the Act applies and states:

Landlord may retain deposits if forwarding address not provided

39 Despite any other provision of this Act, **if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,**

(a) the landlord may keep the security deposit or the pet damage deposit, or both, and

(b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

[emphasis added]

Given the above, the tenant was advised that pursuant to section 39 of the Act, one year has already passed since the tenancy ended on October 12, 2020 and given that the hearing was held on November 5, 2021 is therefore beyond one year. Therefore, the landlord may retain the \$1,200.00 security deposit as the tenant has not provided the landlord with their written forwarding address by October 12, 2021.

Conclusion

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

The filing fee is not granted.

The tenant has no right to the return to their \$1,200.00 security deposit as noted above and pursuant to section 39 of the Act.

This decision will be emailed to both parties at the email addresses provided in the landlord's application and confirmed by the tenant during the hearing.

This decision is final and binding on the parties, except as 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: November 5, 2021

Residential Tenancy Branch