Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes   MNDL-S, FFL

Introduction

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act (the "Act") for the following orders:

1. a monetary order for damage to the rental unit or common areas pursuant to sections 32 and 67;
2. authorization to retain the tenant's security deposit; and,
3. authorization to recover the filing fee for this application, pursuant to section 72.

MS, the tenant, appeared at the hearing.

Preliminary Matter

MS testified that the postal code of the rental property is incorrect on the landlord's application. Pursuant to section 64(a) of the Act, I have amended the landlord's application to reflect the correct postal code of the rental property.

Analysis

Although I waited until 1:40 pm to enable the landlord to connect with the teleconference hearing scheduled for 1:30 pm, the landlord did not attend.

Rules of Procedure 7.3 and 7.4 discuss the consequences of a party not attending a hearing.

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.

7.4 Evidence must be presented
Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

In accordance with the above, the hearing proceeded in the landlord's absence.

The tenant testified that the landlord has not returned their security deposit in the amount of $600.00.

According to Rule 6.6 of the Residential Tenancy Branch Rules of Procedure, the burden of proof is on the landlord to prove their claims. The landlord did not attend the hearing or present their evidence. As a result, they have not proven their claims.

I order the landlord's application is dismissed without leave to reapply. As I have dismissed the landlord's application claiming against the security deposit, I order the landlord to return the security deposit of $600 plus interest of $4.69 to the tenant. To give effect to this order, the tenant is granted a monetary order in the amount of $604.69.

Conclusion

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

The tenant is granted a monetary order in the amount of $604.69.

The landlord must be served with this Order. 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 26, 2023

Residential Tenancy Branch