

Decision

Dispute Codes: MNR, OPR, FF

Introduction

This Application for Dispute Resolution by the landlord indicated that the landlord was seeking an Order of Possession based on a Ten-Day Notice to End Tenancy for Unpaid Rent served in person to the tenant on August 12, 2008 and also seeking a monetary order for rental arrears owed. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail that confirmed by the Canada Post tracking number, to have been sent on and for which the tenant's signature of receipt was recorded on September 8, 2008, the Tenant did not appear.

At the commencement of the hearing, the landlord advised that the tenant had vacated the suite and therefore the Order of Possession would not be required. Accordingly this portion of the application is withdrawn.

Issue(s) to be Decided

The landlord is seeking a monetary order claiming \$3,220.00 for rent and charges and \$50.00 for the cost of filing this application.

The issues to be determined based on the testimony and the evidence are:

- Whether the landlord is entitled to monetary compensation under section 67 of the *Act* for rental arrears owed, damages or loss of rent. This determination is dependant upon answers to the following questions:
 - Has the landlord submitted proof the specific amount of rent being claimed is validly owed by this tenant to this landlord?

- Has the landlord submitted proof that a claim for damages or loss is supported pursuant to *section 7* and *67* of the *Act*?

Background and Evidence

The landlord had not submitted into evidence a copy of the Notice to End Tenancy nor a copy of the tenancy agreement, nor any accounting records of the tenant's rent payment history.

However, the landlord gave verbal testimony that a fixed-term tenancy existed with the tenant named, and that the rent was not paid for the months of August and September 2008.

Analysis

In regards to the landlord's application regarding the monetary claim, I find that I am unable to make a determination in the absence of key evidence that must be submitted and also must be served on the respondent. Any monetary claim for rent is based on the Ten-Day Notice to End Tenancy, and the burden of proof is on the applicant claiming compensation to prove that the tenancy exists, that the debt exists and that the Notice was received by the tenant.

Conclusion

In light of the above, I find that this application cannot proceed under the circumstances and I make no findings on the merit of the application. The landlord's application is therefore dismissed with leave to reapply.

September 26, 2008
