



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## DECISION

**Dispute Codes:** MNR, MNSD, MNDC, FF, MND, OPR,O

### Introduction

This matter dealt with cross applications made by the tenants and the landlord related to a tenancy. At the commencement of the hearing, I was advised that the tenancy had ended on September 1, 2008, and as such an order of possession was no longer required. Both parties seek monetary orders based upon unpaid damages and for harassment.

Both the landlord and the tenant appeared at the hearing, which was held via teleconference.

At the commencement of the hearing, the landlord made reference to certain documents that had been filed in support of her application. I noted that the file contained a significant amount of documentary evidence submitted by the landlord. The tenant, at the hearing stated that he had not been served with any documents other than the application for dispute resolution and the notice of hearing. The landlord admitted that none of her evidence which she was relying upon had been served on the tenant.

I find that the failure of the landlord to serve the evidence upon the tenant has not allowed the tenant a full and fair opportunity to know the case against them. This failure has resulted in a breach of the principles of natural justice and as such I choose not to allow the landlord to rely on the documentary evidence and will not consider it in my decision. I agreed to allow the hearing to proceed and advised the parties I would make my decision based upon their oral evidence presented at the hearing.

### **Issue(s) to be Decided**

Is either party able to establish a valid claim for damages related to this tenancy?

### **Background and Evidence**

The landlord's claim relates to costs of repairs for paint, electrical work, advertising costs, interest on unpaid rent and to recover the filing fee for the cost of this application.

The tenant seeks compensation for loss of use of property during the first month of the tenancy and for harassment by the landlord.

Both parties gave oral evidence and it is obvious that there is a great deal of animosity between the parties and very few if any points that they are in agreement on. Both parties bear the burden of being able to prove their allegations beyond the balance of probabilities and to present evidence in support of their allegations.

### **Analysis**

I find that the landlord's evidence was scant at best. She has made reference to incidents for which she has failed to call any witnesses, or to provide admissible documentary evidence in support of her allegations. I find that she has not established that she is entitled to a monetary order as she has claimed.

The tenant's allegations are that the landlord has harassed him and the other tenant and as such seeks compensation. I find that the tenant has not proven that his tenancy was significantly disrupted during the month of August 2007 to the extent that he should be compensated for a month's rent. The tenant has made a basic case that the landlord's use of video taping during a showing of the home was intrusive and the landlord has not denied that she video taped the tenant during a showing of the rental

unit. While this action by the landlord may have been improper, the tenant has not made a case that he is entitled to compensation.

### **Conclusion**

In relation to the landlord's application \_\_\_\_\_ I dismiss the application without leave to re-apply. \_\_\_\_\_ .

Both parties will bear their own cost of the filing fees for their applications.

Dated: October 10, 2008