

DECISION

Dispute Codes MNDC
 CNC CNR

Introduction

This hearing dealt with two Applications for Dispute Resolution filed by the Tenant to 1) obtain a Monetary Order for money owed or compensation for damage or loss under the Act; 2) To obtain an Order to cancel a notice to end tenancy for unpaid rent and to cancel a notice to end tenancy for cause.

The Tenant testified that he served the Landlord, in person, with a copy of the Notice of Dispute Resolution for his first application on file #733965 and the Tenant could not remember the exact date of this service. The Landlord testified that he never received a copy of the hearing package for this first application, that he only received a copy of the hearing package for the Tenant's second application.

Service of the hearing documents, by the Tenant to the Landlord, for the second application on file # 734283, was done in accordance with section 89 of the *Act*, served personally to the Landlord by the Tenant. The Landlord confirmed receipt of the hearing package for this application.

Both the Landlord and Tenant appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, in documentary form, and to cross exam each other.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Is the Tenant entitled to a Monetary Order and Orders to Cancel Notices to End Tenancy for cause and unpaid rent under Sections 67, 46, and 47 of the *Residential Tenancy Act*?

Background and Evidence

The Tenant confirmed that he did not serve the Landlord with evidence in relation to his first application on file # 733965 which is the application he was applying for the Monetary Order.

The Tenant testified that he was withdrawing his application to cancel the notice to end tenancy on file # 734283 as he has moved out of the rental unit.

Analysis

Monetary Order – File # 733965

Based on the testimony I find that the Tenant has failed to prove that service of the hearing package to the Landlord in relation to file # 733965 was completed in accordance with the *Act*. The Tenant has also admitted that he failed to provide the Landlord with copies of his documentary evidence.

To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. In the absence of proof that the service of documents has been effected in accordance with the *Act*, I dismiss the Tenant's application without leave to reapply.

Cancel Notice to End Tenancy – File # 734283

The Tenant withdrew his application in full.

Conclusion

I HEREBY DISMISS the Tenant's application for a Monetary Order on file # 733965, without leave to reapply.

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: July 31, 2009.

Dispute Resolution Officer