

## **DECISION**

### **Dispute Codes**

OPR MNR MNSD FF  
CNR OLC ERP RP PSF LRE LAT RR FF

### **Introduction**

This hearing dealt with cross Applications for Dispute Resolution. The Landlord filed an application on October 23, 2009 seeking an Order of Possession for unpaid rent, for a Monetary Order for unpaid rent, to keep the security deposit and to recover the filing fee from the Tenants. The Tenants filed on October 22, 2009 seeking an Order to cancel a notice issued for unpaid rent, Orders to have the Landlord comply with the Act, Orders to allow the Tenants to change the locks and reduced rent for required repairs, and to recover the filing fee from the Landlord.

The Landlord's Agent appeared however no one was in attendance for the Tenants.

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

Is the Landlord entitled to Orders pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act*?

Are the Tenants entitled to Orders pursuant to Sections 32, 65, 67, 70, and 72 of the *Residential Tenancy Act*?

### **Background and Evidence**

The Landlord's Agent appeared and was not able to provide testimony on how and when the Tenants were served with notice of the Landlord's application for dispute resolution.

There was no additional evidence or testimony provided in relation to the Tenants' application as no one attended the hearing on behalf of the Tenants.

### **Analysis**

**Landlord's application:** In the absence of the respondents and in the absence of testimony in support of how and when the respondents were served with notice of dispute resolution, by the Landlord, I find that the Landlord has failed to prove that

service of the Notice of Dispute Resolution has been effected in accordance with Section 89 of the *Residential Tenancy Act*. To find in favour of an application for a monetary claim, 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. I hereby dismiss the Landlord's claim, with leave to reapply.

As the Landlord has not been successful with his application, I decline his request to recover the cost of the filing fee from the Tenants.

**Tenants' application:** Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

In the absence of the applicant Tenants, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the applicant Tenants called into the hearing during this time. Based on the aforementioned I find that the Tenants have failed to present the merits of their application and the application is hereby dismissed, without leave to reapply.

### Conclusion

**I HEREBY DISMISS** the Landlord's application, with leave to reapply.

**I HEREBY DISMISS** the Tenants' application, 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: December 07, 2009.

---

Dispute Resolution Officer