



Dispute Resolution Services

Residential Tenancy Branch

Ministry of Housing and Social Development

DECISION AND REASONS

This hearing was convened in response to an application by the landlord filed August 08, 2009 and a cross-application filed by the tenant on November 12, 2009.

The landlord applies for a Monetary Order of \$2400 for compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the filing fee. The tenant applies for compensation in the amount of \$2400 for, "harassment and stress", in part due to the landlord's current application, and for the landlord to comply with the Act, and to recover the filing fee.

Both the landlord and the tenant were represented in today's hearing and each provided prior submissions to this matter.

At the outset of the hearing the landlord was advised that in consideration of their claim for damage and loss their application did not contain any evidence or submissions upon which a Dispute Resolution Officer could apply any test in order to verify the actual amount required to compensate for the claimed loss, or proof that the loss exists, or that they took reasonable steps to mitigate their loss. In summary, the landlord's application could not be sufficiently supported with only testimonial evidence. The landlord advised that four (4) months after filing for Dispute Resolution they forwarded a statement of claim to RTB the day before (November 30, 2009) the hearing, and determined not to send it to the respondent. The landlord testified he was relying on an e-mail from RTB which suggested his evidence was not guided by the prescribed Rules of Procedure in respect to the service of evidence. The landlord was reminded that any evidence upon which the landlord seeks to rely is to be forwarded to the respondent and RTB at least five (5) days before the day of the hearing. I find there was a wilful failure by the landlord to comply with the Rules of Procedure. I do not have benefit of any submission of evidence to bolster the landlord's claims before me, and, of course, neither does the

tenant for the purpose of rebuttal. As a result, **I dismiss** the landlord's application, without leave to reapply.

During the outset of the hearing, the tenant determined to withdraw their application for Dispute Resolution. The tenant's application is hereby **cancelled**.

I decline to grant either party their filing fee.

Dated December 01, 2009.