

DECISION

Dispute Codes MND MNR MNSD MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for damage to the unit, for unpaid rent or utilities, to keep all or part of the pet and or security deposit(s), for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee from the Tenant for this application.

The Landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form.

Issues(s) to be Decided

Is the Landlord entitled to a Monetary Order a) for damage to the unit, and b) for unpaid rent or utilities, and c) to keep all or part of the pet and or security deposit(s), and d) for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, under sections 38 and 67 and of the *Residential Tenancy Act*?

Background and Evidence

The Landlord testified the tenancy began on May 1, 2009 and ended when the Tenant abandoned the rental unit in October 2009. The Landlord stated the Tenant's October 2009 rent payment was returned NSF and when they attempted to contact the Tenant on October 18, 2009 they found the unit had been vacated.

When asked how the Tenant was served with notice of dispute resolution the Landlord stated the Tenant was served via registered mail to an address the Landlord had on file as the Tenant's previous employer.

When I explained to the Landlord that service was not conducted in accordance with the Act the Landlord changed his testimony to say the resident manager served the Tenant in person.

Analysis

All of the testimony and documentary evidence was carefully considered.

The Landlord provided evidence that the hearing package, which was sent to the Tenant via registered mail, was addressed to an address the Landlord had on file as the Tenant's employer at the onset of the tenancy. After being told service was not conducted in accordance with the Act the Landlord changed his testimony stating a resident manager served the Tenant in person. This resident manager was not in attendance at the hearing, nor did he provide a signed affidavit attesting to service of the hearing package to the Tenant.

Based on the above, I find that service of the Notice of Dispute Resolution was not effected in accordance with Section 89 of the *Residential Tenancy Act* which states that service of Notice of Dispute Resolution, if sent via registered mail, must be sent to the address at which the person resides.

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. As I have found the service of documents not to have been effected in accordance with the *Act*, I dismiss the Landlord's claim, with leave to reapply.

As the Landlord has not been successful with his application I decline to award recovery of the filing fee.

Conclusion

I HEREBY DISMISS the Landlord's claim, with 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: March 17, 2010.

Dispute Resolution Officer