

DECISION

Dispute Codes MND MNR MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords to obtain a Monetary Order for damage to the unit, for unpaid rent or utilities, to keep the security deposit, and to recover the cost of the filing fee from the Tenants for this application.

Service of the hearing documents, by the Landlords to the female Tenant, was done in accordance with section 89 of the *Act*, served personally on approximately November 21, 2009. The female Tenant confirmed receipt of the hearing packages. The Landlords confirmed they served the female Tenant with the male Tenant's hearing package.

The Landlords and the female Tenant appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issues(s) to be Decided

Are the Landlords entitled to a Monetary Order a) for damage to the unit, and b) for unpaid rent or utilities, and c) to keep the security deposit, under sections 38 and 67 of the *Residential Tenancy Act*?

Background and Evidence

The tenancy agreement began on September 2, 2008 and ended on approximately September 15, 2009 after the Tenants were issued a notice to end tenancy for unpaid rent. Rent was initially payable on the first of each month which was later changed to the eighth of each month in the amount of \$1,050.00. The Tenants paid a security deposit of \$525.00 on September 2, 2008.

During the course of the hearing the parties came to a settlement.

Analysis

Based on the Landlords' testimony I find the Female Tenant has been served with the Notice of Dispute Resolution Proceeding documents in accordance with the Act.

Section 89(1) of the *Residential Tenancy Act* and Section 3.1 of the *Residential Tenancy Rules of Procedures* determines the method of service for documents. The Landlords have applied for a Monetary Order which requires that the Landlords serve **each** respondent as set out under *Residential Tenancy Rules of Procedures*. In this case only one of the two Tenants has been personally served with the Notice of Dispute Resolution documents. Therefore, I find that the request for a Monetary Order against both Tenants must be amended to include only the female Tenant who has been properly served with Notice of this Proceeding. As the male Tenant has not been properly served the Application for Dispute Resolution as required, the monetary claim against the male Tenant is dismissed without leave to reapply.

During the course of the hearing, the parties reached an agreement to settle this matter, on the following conditions:

1. The Landlords withdraw their application for dispute resolution; and
2. the Landlords will retain the security deposit of \$525.00 plus \$2.60 of interest as payment in full for damages to the unit and money owed for compensation under the act; and
3. the Tenants agree to pay to the Landlords \$1,285.00 which is comprised of unpaid rent from June 2009 of \$550.00 and September 2009 of \$735.00 ; and

As this matter was settled, I decline to award the Landlords recovery of the filing fee for the cost of the application.

Conclusion

I HEREBY grant the Landlords a monetary order under sections 63 and 67 of the Act for the amount of **\$1,285.00**. This order may be filed in Provincial Court and enforced as an order of that Court.

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 22, 2010.

Dispute Resolution Officer