

DECISION

Dispute Codes MNR MNSD MNDC FF
 CNR MNSD OLC ERP RP AAT

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenants.

The Landlord filed seeking a Monetary Order for unpaid rent, to keep the security deposit in partial satisfaction of their claim, for money owed or compensation for damage or loss under the Act, for damage to the unit, and to recover the cost of the filing fee from the Tenants.

The Tenants filed seeking an Order to cancel the notice to end tenancy for unpaid rent, for the return of their security deposit, to order the Landlord to comply with the Act, to have the Landlord make repairs, and to allow the Tenants access to the unit.

The Tenants did not appear despite being served despite having their own application for dispute resolution scheduled for the same hearing date and time.

Issue(s) to be Decided

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

Are the Tenants entitled to Orders under section 30, 32, 46, 62, and 72 of the *Residential Tenancy Act*?

Background and Evidence

The Landlord testified the Tenants vacated the rental unit on May 15, 2010. The Landlord served each Tenant with a copy of the Notice of Dispute Resolution and their hearing package via registered mail to the rental unit on June 11, 2010.

Analysis

Landlord's Application

The evidence supports the Notice of Dispute Resolution packages were sent via registered mail to each Tenant to an address where the Tenants no longer reside. I find that service of the Notices of Dispute Resolution were 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 their application, I find that they are not entitled to recover the cost of the filing fee from the Tenants.

Tenant's 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 dismissed, without leave to reapply.

Conclusion

Landlords' Application

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

Tenants' Application

The Tenant's application is **HEREBY DISMISSED**, 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: June 30, 2010.

Dispute Resolution Officer