

DECISION

Dispute Codes MND FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for damage to the unit, site, or property, and to recover the cost of the filing fee from the Tenant for this application.

Service of the hearing documents, by the Landlord to the Tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on May 12, 2010. Mail receipt numbers were provided in the Landlord's verbal testimony. The Tenant is deemed to be served the hearing documents on May 17, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

The Landlord appeared, was provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issues(s) to be Decided

Is the Landlord entitled to a Monetary Order pursuant to sections 67 and 72 of the *Residential Tenancy Act*?

Background and Evidence

The Landlord testified that he first applied through the Direct Request process and that he was advised to separate his claim for damages. He proceeded with the Direct Request process and was granted an Order of Possession and a Monetary Order against the security deposit for \$412.00.

This hearing was convened to deal with the Landlord's application for damages to the rental unit.

The Landlord argued that evidence was submitted, in person, for this application for damages. He argued that on May 12, 2010, he submitted a copy of the move-in and move-out inspection report, a copy of the tenancy agreement, a copy of an invoice for the repair of the door on April 28, 2010, and an estimate for the cost to repair the exterior siding.

The Landlord is seeking a Monetary Order as follows:

- \$256.16 for the door repair which was repaired on April 28, 2010; and
- \$341.25 for the repair to the siding which was completed on June 16, 2010; and
- \$50.00 for the recovery of the filing fee.

Analysis

All of the testimony and documentary evidence was carefully considered.

I confirmed with the Residential Tenancy Branch that there was no evidence submitted by the Landlord for this file. A review was conducted of the evidence which was submitted for the Landlord's direct request application and there were no copies of repair estimates or repair invoices submitted with the direct request application. I note that I was advised that the evidence log indicates that there was evidence delivered by this Landlord on May 13, 2010 however the evidence was for two different files, neither relating to this Tenant. A review was conducted on those two additional files and it was confirmed that there was no evidence placed in those files for the Tenant named in this application.

Section 7(1) of the Act provides that if a landlord or tenant does not comply with this Act, the Regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for the damage or loss which results. That being said, section 7(2) also requires that the party making the claim for compensation for damage or loss which results from the other's non-compliance, must do whatever is reasonable to minimize the damage or loss.

The party applying for compensation has the burden to prove their claim and in order to prove their claim the applicant must provide sufficient evidence to establish the following:

1. That the Respondent violated the Act, Regulation, or tenancy agreement; and
2. The violation resulted in damage or loss to the Applicant; and
3. Verification of the actual amount required to compensate for loss or to rectify the damage; and
4. The Applicant did whatever was reasonable to minimize the damage or loss

In the absence of documentary evidence I find the Landlord failed to provide sufficient evidence to support that the repairs were completed or to confirm the actual amount of

loss incurred by the Landlord. Therefore I hereby dismiss the Landlord's claim for damages to the rental unit.

As the Landlord's application has been dismissed, I hereby decline to award recovery of the filing fee.

Conclusion

The Landlord's application is HEREBY DISSMISSED, 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: August 16, 2010.

Dispute Resolution Officer