



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking a monetary order for compensation under the Act or tenancy agreement, and to recover the filing fee for the Application.

The Tenant appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Tenant testified he served the Landlord by leaving a copy of the Application and Notice of Hearing at the Landlord's residence with a young person who came to the door. The Tenant was unable to identify the young person and estimated their age to be between 17 and 18 years of age.

Issues(s) to be Decided

Is the Tenant entitled to the relief sought?

Background and Evidence

The Tenant alleges he and his children endured pain and suffering due to a loss of quiet enjoyment at the rental unit. He testified that he had called the Landlord on several occasions to request repairs to be made to the rental unit. He testified that the Landlord did not do these repairs and it caused him to have to pay extra for heating the unit.

The Tenant also alleges the Landlord was doing renovations to another building on the property and there was excessive noise from the tarps flapping in the wind and due to the construction.

The Tenant requests \$4,000.00 in compensation from the Landlord.

The Tenant submitted no documentary evidence in support of his claim.

Analysis

Based on the foregoing, the testimony, and on a balance of probabilities, I find that the Tenant's claim must be dismissed.

The Tenant had insufficient evidence that the Landlord was served with the Application or the Notice of Hearing. I find the Tenant did not serve the Landlord or an Agent of the Landlord in accordance with section 89 of the Act.

I further find the Tenant had insufficient evidence to support any of his claims against the Landlord. He did not submit any documentary evidence, such as a written tenancy agreement, to prove that a tenancy existed. He had no medical evidence he or his children endured pain and suffering. He had no evidence to show he had requested in writing that the Landlord make certain repairs to the rental unit. He had insufficient evidence to support his allegation that the Landlord's renovations to a different building on the property impacted on his right to quiet enjoyment of the rental unit.

The onus of proving a claim is on the Applicant. Here I find the Tenant has insufficient evidence to prove any portion of his claim. The Notice of Hearing and the hearing package of documents that the Tenant received contained information on submitting evidence.

Therefore, based on all of the above, I find the Tenant's Application for Dispute Resolution must be dismissed.

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: September 01, 2010.

Dispute Resolution Officer