

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with the tenants' application pursuant to section 60 of the *Manufactured Home Park Tenancy Act* (the *Act*) for a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement. They also applied to recover the filing fee for their application from the landlord pursuant to section 65 of the *Act*.

The landlord did not attend this hearing. The tenants attended the hearing and were given a full opportunity to be heard, to present evidence, to call witnesses and to make submissions. They testified that they sent the landlord a copy of their application for dispute resolution by registered mail on May 25, 2010. They provided a Canada Post Tracking Number to confirm their mailing. I am satisfied that the tenants served the landlord with notice of their application for dispute resolution in accordance with the *Act*.

Issues(s) to be Decided

Are the tenants entitled to receive a monetary Order from the landlord? Are the tenants entitled to recover the cost of their filing fee from the landlord?

Background and Evidence

The tenants testified that the landlord destroyed flowers and a large flower pot at the front of their manufactured home site when he ran over this with his vehicle. They said that they applied for dispute resolution regarding this matter in the past and the Dispute Resolution Officer (DRO) decided that the landlord should pay for their cost of replacing these items. However, they said the DRO left the settlement of the replacement cost of the flower pot to the parties and made no monetary award at that time.

The parties entered undisputed written evidence that they spent \$78.62 to replace the flowers and the flower pot. They said that the landlord objected to paying this amount.

Analysis

Section 60 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party.

Although the tenants provided a Residential Tenancy Branch File Number for the previous decision of a DRO, they did not submit into evidence a copy of that decision. As such, I have disregarded that evidence and have based my decision on their application and their undisputed evidence regarding the expenses they incurred. In the absence of any evidence from the landlord to the contrary, I grant the tenants a monetary award of \$78.62 to replace the items they testified were destroyed by the landlord. I allow the tenants to recover their \$50.00 filing fee for this application.

Conclusion

I issue a monetary Order in the tenants' favour in the amount of \$128.62 which includes recovery of their filing fee for this application. The tenant is provided with these Orders in the above terms and the landlord must be served with a copy of these Orders as soon as possible. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.