



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNR, FF, MNDC

Introduction

Some documentary evidence and written arguments have been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is an application to cancel a Notice to End Tenancy that was given for non-payment of rent, a request for a monetary order for \$25.00, and a request that the respondent bear the \$50.00 cost of the filing fee that was paid for the application for dispute resolution.

At the time of the hearing however the tenant had paid the outstanding rent within the five day grace period, and therefore the Notice to End Tenancy was already void and no order is required cancelling it.

This hearing therefore dealt with a monetary claim only.

Background and Evidence

The tenant testified that:

- He had sent the landlord 4 post-dated cheques to cover rent for the months of September 2010, October 2010, November 2010, and December 2010.
- The landlord cashed the September 2010 rent cheque and the October 2010 rent cheque but lost the other two.
- He therefore had to put stop payments on the two other cheques at a cost of \$12.50 per cheque for a total of \$25.00.

The applicant is therefore requesting an order that the landlord pay the \$25.00 and the \$50.00 filing fee for a total of \$75.00.

The landlord testified that:

- She never received cheques from the tenant for the months of November 2010 and December 2010, there were only two cheques in the envelope, September 2010 and October 2010.
- She was surprised at the time of receiving the two cheques because she had expected to receive cheques to the end of the year.
- She did not lose any cheques and therefore is not responsible for the tenant's stop payment charges.

Analysis

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.



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In this case it is just the tenant's word against that of the landlord and since the landlord denies ever receiving cheques for the months of December 2010, and November 2010, the tenant has not met the burden of proving his claim.

Conclusion

The monetary claim is dismissed in full without leave to reapply and I further order that the applicant bear the \$50.00 cost of the filing fee that he paid for his application for dispute resolution.

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: January 05, 2011.

Residential Tenancy Branch