

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:10 p.m. in order to enable the tenant to connect with this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she sent a copy of the dispute resolution hearing package to the tenant by registered mail at the dispute address on April 19, 2011. The landlord provided a copy of the Canada Post Tracking Number. The landlord said that she has no more recent address for the tenant than the dispute address of the rental unit that the tenant vacated by February 28, 2011. She said that she had hoped that the hearing package would be forwarded to the tenant's new mailing address by Canada Post.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to a monetary award for damage arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy commenced on or about September 2, 2005. Monthly rent by the end of this tenancy was \$1,320.00. The landlord continues to hold the tenant's \$595.00 security deposit paid on August 22, 2005.

The landlord applied for a monetary award of \$8,037.12. This amount included loss in rent for March 2011 and extensive damage to the rental unit that the landlord maintained occurred during this tenancy.

Analysis

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

The landlord has not served the tenant in a manner required by section 89(1) of the *Act*. The landlord clearly knew that by April 19, 2011, the tenant no longer resided at the dispute address where the landlord sent the dispute resolution hearing package. The landlord testified that the tenant has not provided a forwarding address by registered mail. Under these circumstances, I am not satisfied that the tenant was properly served with the landlord's application for dispute resolution.

Conclusion

I dismiss the landlord's application with 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*.