



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, MND, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution, seeking to retain the tenant's security deposit, for a monetary order for unpaid rent and for damage to the rental unit and for recovery of the filing fee.

The landlord's agent's appeared, gave affirmed testimony and was provided the opportunity to present his evidence orally and in documentary form, and make submissions to me.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on July 19, 2011, the tenant did not appear. The landlord's agent testified that the mail was sent to the address provided by the tenant as a forwarding address.

Issue(s) to be Decided

Has the tenant breached the *Residential Tenancy Act* (the "Act") or tenancy agreement, entitling the landlord to an Order for monetary relief and to retain the tenant's security deposit?

Background and Evidence

The landlord's agent testified that evidence supporting the landlord's monetary claim was submitted, but was not received by the Residential Tenancy Branch until the day before the hearing. A search of the records does not indicate that the evidence was received.

The landlord's agent requested that the landlord's application be withdrawn.

Analysis

Based on the foregoing testimony, and on a balance of probabilities, I find as follows:

When making a claim for damages under a tenancy agreement or the *Act*, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or *Act*, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

In the absence of documentary proof of a tenancy, tenancy agreement, proof of payment of a security deposit or evidence proving a monetary claim, I find the landlord has failed to substantiate their claim.

Conclusion

Due to the insufficient evidence, I **dismiss** the landlord's application, **with leave to re-apply**.

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: October 18, 2011.

Residential Tenancy Branch