

## **DECISION**

Dispute Codes      MNDC, OLC, FF

### Introduction

This matter dealt with an application by the Tenant for compensation for damage or loss under the Act, regulations or tenancy agreement, for the Landlord to Comply with the Act and to recover the filing fee for this proceeding.

The Tenant said he served the Respondent with the Application and Notice of Hearing (the "hearing package") by registered mail on August 5, 2011. Based on the evidence of the Tenant, I find that the Respondent was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

### Issues(s) to be Decided

1. Is there loss or damage and if so how much?
2. Is the Tenant entitled to compensation for the loss or damage and if so how much?
3. Has the landlord complied with the Act?

### Background and Evidence

This tenancy started on June 1, 2010, as a month to month tenancy. No rent was paid, but the Tenant has paid the utilities and the Tenant provided a caretaking function for the property in lieu of rent. No security deposit was paid. The Tenant said he moved out of the rental unit as of November 8, 2011.

At the start of the conference Counsel for the Respondent said the Respondent is not the landlord and therefore the application has been made in error. The Respondents Counsel said the property is in foreclosure and by way of a Court Order for a Conduct of Sale; the Respondent is selling the property. The Respondent and the Respondents Counsel both said there are no agreements written or verbal between the Tenant and the Respondent and the property is still in the owner's (J.C) name.

The Tenant said he has an informal written tenancy agreement with the owner of the property (J.C.) and he agreed that he has no arrangement with the Respondent.

The Tenant continued to say that his application is for compensation for loss of the pool facility and damages or loss to him. The Tenant said he incurred costs of \$632.40 for reopening the pool, \$419.00 for damage to his belongings and \$110.00 for time he took

off work to make this application. The Tenant submitted receipts totally \$182.40 as proof of loss for his claims.

### Analysis

As both the Tenant and the Respondent agreed the tenancy agreement was between the owner of the property (J.C.) and the Tenant, and there is no agreement between the Tenant and the Respondent, I find the Tenant has filed his application in error by naming the Respondent as the landlord. The property has remained in the original owners name (J.C.) and the Respondent has not assumed the tenancy from the owner of the property. I find the Respondent is not the landlord in this tenancy. Consequently, I dismiss the Tenant's application with leave to reapply by correcting the Respondent to the Owner of the Property (J.C.) who is the proper Landlord in this tenancy.

As the Tenant has not been successful in this matter I order the Tenant to bear the \$50.00 filing fee for this proceeding which the tenant has already paid.

### Conclusion

The Tenant's application is dismissed 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*.

Dated: November 9, 2011.

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Residential Tenancy Branch