



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened by way of conference call to deal with the tenant's application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement.

The landlord attended the conference call hearing, however the tenant did not attend.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

A hearing was conducted by a Dispute Resolution Officer on November 20, 2009 and resulted in a Decision dated December 23, 2009 granting a monetary order in favour of the tenant in the amount of \$4,009.00. The resulting order is dated November 20, 2009. The landlord did not attend that hearing.

The landlord filed an application for a review hearing on December 14, 2011, which was granted based on evidence that the tenant did not serve the landlord with the Application and notice of hearing documents in accordance with the *Residential Tenancy Act*, but that the tenant served the landlord by registered mail addressed to the rental unit. The Dispute Resolution Officer who considered the Review Application issued a Decision on January 4, 2012 and found that the tenant did not serve the landlord at an address at which the landlord resided or carried on business as a landlord, and suspended the Decision dated December 23, 2009 and the order dated November 20, 2009 until a review hearing has been completed. This is the review hearing.

The review hearing was scheduled for January 25, 2012 at 1:30 p.m. at which time only the landlord attended. The hearing was adjourned to March 9, 2012 at 1:30 p.m. by

telephone conference call because the Decision dated January 4, 2012 on the review was silent with respect to service on the tenant. The landlord was ordered on January 25, 2011 to serve the tenant with the interim Decision of January 25, 2012 and the notice of hearing scheduling this matter for March 9, 2012 at 1:30 p.m. The landlord provided proof of having sent the documents by registered mail on February 10, 2012, being a Canada Post receipt containing that date along with a Registered Mail ticket. Both documents contain the same registration number, and I find that the tenant has been served with the documents in accordance with my order on January 25, 2012 and the *Residential Tenancy Act*.

The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the respondent landlord. The applicant tenant failed to attend to present the claim, and the respondent landlord appeared and was ready to proceed.

The *Residential Tenancy Act* states that:

82 (1) Unless the director dismisses or refuses to consider an application for a review under section 81, the director must review the decision or order.

(2) The director may conduct a review

(a) based solely on the record of the original dispute resolution proceeding and the written submissions of the parties, if any,

(b) by reconvening the original hearing, or

(c) by holding a new hearing.

(3) Following the review, the director may confirm, vary or set aside the original decision or order.

In this case, the director did not dismiss or refuse to consider the application for a review under section 81, and the director suspended the original decision and order, and ordered a new hearing.

Having found that the tenant was served in accordance with my order and in accordance with the *Residential Tenancy Act*, and in the absence of the party who made the application, I dismiss the claim without leave to reapply. I made no findings of fact or law with respect to the merits of this matter.

Conclusion

For the reasons set out above, the tenant's application, as suspended on January 4, 2012 is hereby dismissed without 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: March 9, 2012.

Residential Tenancy Branch