



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for damage to the unit, site or property, for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement, and to recover the cost of the filing fee from the Tenant for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. During the hearing each party was given the opportunity to provide their evidence orally and respond to each other's testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Is the Landlord entitled to a Monetary Order?

Background and Evidence

The Landlord affirmed he is seeking monetary compensation for carpet he had replaced on June 20, 2011 and costs to have reprints of photographs which he had done on May 09, 2012, specifically for this hearing. These amounts were supported by invoices provided in the Landlord's documentary evidence.

The Tenants submitted into evidence a copy of the March 26, 2012 decision issued after the previous dispute resolution hearing. The Tenants noted that on page three of this decision the Dispute Resolution Officer dismissed the Landlord's claim for replacement of the carpet without leave to reapply, and therefore this matter should not be considered today.

The Tenants argued that the claim for costs of photographs should also be denied as this claim relates to the exact same photos that were submitted in the previous hearing.

Analysis

The Landlord is seeking to recover costs to have carpets replaced, a matter that was heard and was *dismissed **without leave to reapply*** on March 26, 2012. Therefore, this claim constitutes res judicata and cannot be heard in this proceeding.

Res judicata is a doctrine that prevents rehearing of claims and issues arising from the same cause of action, between the same parties, after a final judgment was previously issued on the merits of the case. Based on the aforementioned I decline to hear matters pertaining to carpet replacement.

In relation to costs for photographs, I find that the Landlord has chosen to incur these costs which cannot be assumed by the Tenants. The dispute resolution process allows an Applicant to claim for compensation or loss as the result of a breach of Act and recovery of the filing fee; not costs incurred in the preparation of evidence as such costs involve personal choice and are costs of doing business. Accordingly, I dismiss this claim, without leave to reapply.

The Landlord has not been successful with his application; therefore I find he must bear the burden of the cost to file his application.

Conclusion

I HEREBY decline to hear matters pertaining to carpet replacement.

I HEREBY DISMISS the balance of the Landlord's claim, 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: July 06, 2012.

Residential Tenancy Branch