



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MND, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss; for a monetary Order for damage; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing.

The Landlord stated that on June 06, 2012 he mailed the Application for Dispute Resolution and Notice of Hearing to the Tenant, via registered mail. The female Tenant stated that she did not retrieve these documents from Canada Post until June 22, 2012, as she kept forgetting to pick them up.

The Landlord submitted a package of evidence to the Residential Tenancy Branch on July 13, 2012. The Landlord stated that on July 13, 2012 he mailed this evidence package to the Tenant, via registered mail. The female Tenant stated that she did not retrieve these documents from Canada Post until July 27, 2012.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to compensation for damage to the rental unit; to retain all or part of the security deposit paid by the Tenant; and to recover the filing fee for the cost of this Application for Dispute Resolution.

Background and Evidence

On the Application for Dispute Resolution which was filed on June 01, 2012 the Landlord declared he was seeking a monetary Order in the amount of \$3,000.00. The Landlord has not amended the amount of the claim on the Application for Dispute Resolution.

In the "Details of Dispute" section of the Application for Dispute Resolution the Landlord declared that he will "figure out the actual costs of parts, materials, paint and time and

this will likely come in at \$2,000 to \$4,000. The Landlord does not provide any details of the alleged damages on the Application for Dispute Resolution.

In the evidence package the Landlord mailed to the Tenant on July 13, 2012 the Landlord submitted a document in which he lists the following claims:

- \$2,000.00 for labour
- \$100.00 for mileage
- \$439.67 for paint
- \$1,331.83 for parts
- \$112.21 for dispute resolution expenses
- \$975.00 for time spent on resolution

The Tenant stated that she was of the understanding that the Landlord is claiming compensation in the amount of \$3,000.00.

Analysis

Rule 2.5 of the Residential Tenancy Branch Rules of Procedure stipulates that a landlord may amend an Application for Dispute Resolution if the proceeding has not yet commenced; that if the Application has not yet been served to the respondent the applicant must submit an amended copy of the Application to the Residential Tenancy Branch and serve the amended copy to the respondent; and that if the Application for Dispute Resolution has already been served to the respondent and the applicant is able to serve the amended copy to the applicant at least seven days before the dispute resolution hearing, the applicant will be permitted to file a revised Application for Dispute Resolution with the Residential Tenancy Branch.

In these circumstances the Landlord has not filed an amended Application for Dispute Resolution with the Residential Tenancy Branch. I therefore find that the Application has not been amended and the Landlord has not increased his claim from \$3,000.00.

Section 59(2)(b) of the *Residential Tenancy Act (Act)* stipulates that an Application for Dispute Resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings. I find that the Landlord's Application for Dispute Resolution does not provide full details of the Landlord's dispute. In reaching this conclusion I was heavily influenced by the fact the Landlord claimed compensation of \$3,000.00 and then indicated his actual costs will be between \$2,000.00 and \$4,000.00. More importantly, I find that the Landlord had provided no details of his monetary claim in the Application for Dispute Resolution: he did not declare the items that are allegedly damaged nor did he declare the amount of compensation he is seeking for each damaged item.

Although the Landlord did provide a list of monetary claims in the evidence package that he mailed to the Tenant on July 13, 2012, I find the list of claims does not clearly support the monetary claim of \$3,000.00. The list of claims provided by the Landlord

outline claims that total \$4,958.71. In light of the contradictory information provided by the Landlord I find that it would be prejudicial to the Tenant to proceed with the Landlord's claim, as the contradictory information makes it difficult to prepare a response to the claims. In my view, it is not clear which of the claims in the list of \$4,958.71 the Landlord wished to rely upon to support his claim of \$3,000.00.

Conclusion

I refuse the Landlord's claim for compensation for damages to the rental unit, pursuant to section 59(5)(a) of the *Act*, because his Application for Dispute Resolution did not provide sufficient particulars of his claim for compensation for damages, as is required by section 59(2)(b) of the *Act*.

The Landlord retains the right to file another Application for Dispute Resolution in which he claims compensation for damages to the rental unit.

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 31, 2012.

Residential Tenancy Branch