



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, CNR, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened in response to cross applications.

The Tenant filed an Application for Dispute Resolution, in which the Tenant has made application to set aside a Notice to End Tenancy for Unpaid Rent.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession, a monetary Order for money owed or compensation for damage or loss; a monetary Order for unpaid rent; to retain the security deposit; and to recover the fee for filing an Application for Dispute Resolution. The male Landlord stated that the rental unit has been vacated and an Order of Possession is no longer needed.

Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent/lost revenue; should the Notice to End Tenancy for unpaid rent be set aside; should the security deposit be retained by the Landlord or returned to the Tenant; and is the Landlord entitled to recover the fee for filing an Application for Dispute Resolution, pursuant to sections 38, 46(4), 67, and 72 of the *Residential Tenancy Act (Act)*?

Background and Evidence

The female Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant, via registered mail, on February 15, 2013. The Landlord did not submit any documentation to corroborate this testimony nor was the Landlord able to cite a Canada Post tracking number to corroborate the testimony.

The tenant was not represented at the hearing, which commenced at 9:00 and ended at 9:14.

Analysis

I find that the Landlord has submitted insufficient evidence to corroborate the testimony that the Tenant was served by registered mail and I am therefore unable to proceed with the proceeding in the absence of the tenant. I dismiss the Landlord's Application for Dispute Resolution with leave to reapply.

I find that the Tenant did not diligently pursue his Application for Dispute Resolution and I therefore dismiss his Application for Dispute Resolution without leave to reapply

Conclusion

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 07, 2013

Residential Tenancy Branch

