



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for damage to the rental unit pursuant to section 67; and
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to discuss the landlord's application.

Issues(s) to be Decided

Has the landlord served the tenant with the dispute resolution hearing package? If so, is the landlord entitled to a monetary award for damage arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Preliminary Matter – Service of Dispute Resolution Hearing Package

The landlord testified that she served the tenant with the landlord's dispute resolution hearing package by leaving it with the tenant's mother at that mailing address provided to the landlord by the tenant at the end of this tenancy. She did not know the date when this occurred.

The tenant testified that the only documents she was provided by the landlord was the 1-page Notice of a Dispute Resolution Hearing and a booklet, both documents produced by the Residential Tenancy Branch (the RTB). The tenant testified that the landlord did not include a copy of the landlord's application for dispute resolution or any other documents relating to her tenancy in the package landlord left with the tenant's mother. Based on the documents she had received from the landlord, she was uncertain as to the purpose of this hearing.

I noted that the RTB had only received the first page of the tenant's application for dispute resolution in the package forwarded to the RTB by the Service BC Office where the landlord submitted her application.

Analysis- Service of Dispute Resolution Hearing Package

The tenant clearly received the Notice of a Dispute Resolution Hearing, as she had the telephone number and access code to participate in this hearing. However, a fundamental principle of natural justice requires a respondent to know the case against her so as to enable her to be given an opportunity to make representations in support of her position.

In this case, I am not satisfied that the landlord has demonstrated that she served a copy of her application for dispute resolution or any other information specific to her application to the tenant. I dismiss the landlord's application for dispute resolution with leave to reapply as I am not satisfied that the landlord has served key elements of the landlord's application for dispute resolution to the tenant.

Conclusion

I dismiss the landlord's application 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: September 19, 2013

Residential Tenancy Branch

