



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution made by the tenant for the return of all or part of the pet damage or security deposit and for money owed or compensation for damage or loss under the *Residential Tenancy Act* (referred to as the Act).

The tenant appeared for the hearing with an advocate. There was no appearance by the landlord although some documentary evidence had been submitted in advance of the hearing by the landlord.

The tenant served the landlord with a copy of the application and Notice of Hearing documents personally on September 30, 2013. Based on this and the submission of evidence by the landlord in advance of this hearing, I find the tenant served the landlord in accordance with the Act.

The landlord and tenant for this hearing had previously appeared for a hearing on August 20, 2013 to deal with the same exact issues. A copy of the decision was provided as evidence for this hearing by the landlord during which the Arbitrator dismissed the tenant's application because a tenant and landlord relationship did not exist between the applicant and respondent.

The decision also details the fact the tenant argued that because she paid the landlord a portion of the rent she was a tenant of the landlord. The Arbitrator dismissed the application with leave for the tenant to file an application against the correct party.

The landlord's advocate stated that they had made the application again as they had not been given an opportunity to present their case and provide details to prove their application.

Analysis and Conclusion

Section 77 of the Act states that, except as otherwise provided in the Act, a decision or an order is final and binding on the parties. Therefore any findings made by an Arbitrator that presided over the prior hearing are not matters that I have any authority to alter and any decision that I render must honour the existing findings. As a result, the tenant's application is therefore dismissed as this matter has already been determined in the previous hearing.

Conclusion

For the reasons set out above, I dismiss the tenant's application.

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: December 17, 2013

Residential Tenancy Branch

