



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC MNSD OLC FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent and damages to the property;
- b) An Order to retain the security deposit pursuant to Section 38; and
- c) An order to recover the filing fee pursuant to Section 72.

This hearing also dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- d) For a return of twice the security deposit pursuant to section 38; and
- f) To recover the filing fee for this application.

Issue of Service:

The landlord and only one of the four tenants attended the hearing. Both parties said they had not received copies of each other's Application/Notice of Hearing and evidence as there were some problems with the addresses. The tenant had a suite number which was not included and the landlord said he had been travelling and had not received any of the Notice cards.

The landlord filed his Application on September 30, 2013 and the tenant filed his Application on September 23, 2013. These dates may be important for purposes of time calculations under section 38.

Analysis:

I find that neither party received the Application of the other and none of the evidence has been exchanged. I find based on the oral evidence that this was not the fault of either party but simply unfortunate circumstances. The parties agreed in the hearing that it would be unfair to conduct a hearing without having copies of the evidence.

The tenant has now moved to another country and he gave his new address to the landlord and myself on the telephone. Each party was cautioned to send their new Application and all the evidence to each other.

Conclusion:

I dismiss the Applications of the landlord and the tenant and give them both leave to reapply within the legislated time limits.

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 18, 2013

Residential Tenancy Branch

