



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Street Holdings
and [tenant name suppressed to protect privacy]

REVIEW HEARING INTERIM DECISION

Dispute Codes:

MNR; MNDC; OLC; RR

Introduction

This is the Tenant's application, filed January 15, 2014, for the cost of emergency repairs; compensation for damage or loss under the Act, Regulation or tenancy agreement; and an Order allowing the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided.

On February 21, 2014, the Tenant amended his application to include a request for an Order that the Landlord comply with the Act, Regulation or tenancy agreement.

This matter was originally scheduled to be heard on March 7, 2014. On March 7, 2014, it was adjourned to allow the Landlord an opportunity to review the Tenant's documentary evidence which was served late. The matter was reconvened on May 1, 2014, but the Landlord did not sign in to the teleconference. The Hearing continued in the absence of the Landlord and the Tenant was awarded a Monetary Order in the amount of \$816.90, calculated as follows:

Emergency repair to toilet	\$291.90
Compensation for cleaning	\$70.00
Compensation for lack of hot water	\$50.00
Rent reduction from February to May, 2014	\$400.00

The Landlord was ordered to comply with Section 32 of the Act. The Tenant was also provided with a rent reduction of \$100.00 per month from June 1, 2014, until repairs were made to the plumbing.

On May 8, 2014, the Landlord filed an Application for Review Consideration on the grounds that it was unable to attend the Hearing for reasons that were beyond the Landlord's control and could not be anticipated. The Landlord's Application for Review Consideration was granted and a new Hearing was ordered. The May 1, 2014 Decision and Orders were suspended until the new Hearing was completed.

This is the new Hearing.

The parties gave affirmed testimony at the new Hearing.

Preliminary Matter

At the outset of the Hearing, the Landlord's agents testified that the Tenant was before the Supreme Court and filed a petition canvassing the same issues and other issues. The Landlord's agents submitted that the Hearing should be adjourned until the Supreme Court had reached a decision.

The Tenant submitted that his Supreme Court Petition was with respect to a different matter (the "Other RTB File"), which was to do with an Order of Possession for the Landlord.

File numbers were provided for the Supreme Court action and the Other RTB file.

The Landlord's agents stated that the Tenant also made submissions in Supreme Court with respect to the matters before me today. The Landlord's agents also submitted that this matter had already been decided with the Other RTB file Decision. The Tenant disputed this.

A copy of the Tenant's Petition was not provided to me, and the Other RTB file was not available.

I advised the parties that I was adjourning this matter in order to view the Other RTB file contents to determine whether or not this matter was *res judicata*.

On reviewing the Other RTB file contents, I discovered that it was the Tenant's application, filed May 20, 2014, and amended June 3, 2014, to cancel a Notice to End Tenancy for Unpaid Rent; and compensation for "loss of work due to these disputes". The Tenant's Application was dismissed on July 10, 2014. On July 11, 2014, the Tenant filed an Application for Review Consideration which was also dismissed.

I find that the Tenant's application for compensation for lost wages which was dismissed on July 10, 2014, is unrelated to the Tenant's application for monetary orders on the Application which is the subject of this new Hearing. Therefore, **I find that this matter has not already been determined and is not *res judicata*.**

With respect to the Landlord's submission that this is a matter before the Supreme Court, I find that I have insufficient evidence to make a determination. **Therefore, I ORDER that the Tenant provide me with a copy of his Supreme Court Petition and I ORDER that the Landlord provide me with a copy of its response to the Tenant's Petition, no later than September 5, 2014. I FURTHER ORDER that the parties**

provide each other with identical copies of these documents no later than September 5, 2014. I will make a determination with respect to jurisdiction and whether or not this matter will continue once I have had an opportunity to view the parties' documents.

This interim 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: August 21, 2014

Residential Tenancy Branch

