



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MND, MNDC, MNR, OPC, OPL

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation in the sum of \$2,117.00 for damage to the rental unit, unpaid rent and damage or loss under the Act; an Order of possession for cause and landlord's use and to retain the security deposit.

The landlord provided affirmed testimony that sometime in July 2014 her father personally served the respondent with copies of the Application for Dispute Resolution and Notice of Hearing. The landlord did not know the date but on August 1 or 2, 2014 she received mail from the tenant that included a copy of the Notice of hearing for this hearing. This copy of the Notice, sent by the tenant, confirmed he had been served with the hearing documents.

Section 71(2) of the Act provides:

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

(a) that a document must be served in a manner the director considers necessary, despite sections 88 [how to give or serve documents generally] and 89 [special rules for certain documents];

(b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;

(c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

Therefore, as the tenant has sent the landlord a document that shows he was given the hearing documents no later than August 2, 2014, I find that he has been sufficiently served with Notice of the hearing.

Preliminary Matters

The landlord's application did not include an itemized list of the monetary claim made.

The application was served to the tenant in the absence of any evidence although the landlord said the tenant had been given some documents; over a period of time.

On November 14, 2014; thirteen days prior to this hearing, the landlord submitted one hundred and ten pages of evidence. This evidence package was not given to the tenant or the Residential Tenancy Branch with the application or at least fourteen days prior to the hearing, as required by the Rules of Procedure. From a review of the evidence it appeared the evidence could have been given at the time the application was made on July 8, 2014; as required by the Rules of Procedure.

I then determined that the application would not proceed, based upon section 59(5)(a) of the Act which provides the authority decline an application when it does not comply with 59(2)(b) of the Act, by disclosing the full particulars of the claim.

The landlord did not provide a detailed calculation for any portion of her claim, as required. I am unable to determine what portions of her claim relate to a request for compensation and, if so, what amount of compensation she seeks. Therefore, the application has been declined and the tenant has leave to reapply.

Conclusion

The application is declined; the landlord has leave to reapply within the legislated time-frame.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 28, 2014

Residential Tenancy Branch

