



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: ERP RP RR MNDC

Introduction

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

- a) That the landlord do emergency repairs pursuant to section 33; and
- b) That the landlord repair and maintain the property pursuant to section 32;
- c) A rent rebate as compensation for repairs not done and disturbance of his peaceful enjoyment contrary to section 28 of the Act.

Service:

The tenant /applicant gave evidence that he served the Application for Dispute Resolution by registered mail but was unable to provide evidence of this and the landlord did not attend. I find insufficient evidence that the documents were legally served for the purposes of this hearing.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that the landlord has not maintained the property contrary to sections 32 and 33 of the Act and are they entitled to orders that the landlord do necessary repairs?

Background and Evidence

Only the tenant attended and was unable to provide proof of service such as a tracking number for the registered mail; he said he was on a bus and had just been reminded of the hearing by his phone so he had no documents with him. He was unable to remember details of his claim or when he vacated. He requested a break so he could contact his new landlord to look in his room; this was granted but he was unable to make contact.

He said he has a poetic nature and has trouble with details so he asked me about reclaiming his security deposit and making another application; he thought he had

requested it on this Application but he had not. He requested that I list some steps in the Decision to aid his memory on how to proceed.

Analysis:

The tenant has vacated the unit so even if service was proved, I find it is not relevant to order repairs to a unit in which he no longer resides. Although he may be entitled to claim a rebate of rent for some of the items he mentioned such as lack of repair and disturbance of his peaceful enjoyment, he specified no amounts in this application and provided no evidence other than his statements.

I dismiss his Application for lack of proof of service and give him leave to reapply within the legislated time limits.

As requested by him, these are some of the steps to be more successful in a claim:

1. Make another Application at the RTB for a rebate of rent and for the refund of the security deposit. Serve the landlord with this personally or by registered mail and have some objective evidence to prove you did this.
2. Make sure you have provided your new address in writing to the landlord and asked him/her for the return of your security deposit and include proof you gave this to him/her in your evidence.
3. List in a Monetary Order worksheet how much money you claim and for what you are claiming.
4. Provide as much evidence as you can on your claim to the RTB and a copy of it to the respondent landlord.

Please note this information is available online and also from officers at the RTB office.

Conclusion:

I dismiss this Application with leave to reapply. No filing fee was involved.

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 11, 2015

Residential Tenancy Branch

