



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, O, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent and for damage to the rental unit, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38;
- other unspecified relief; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 12 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At the outset of the hearing, the landlord confirmed that he wished to withdraw his application, as he was unable to confirm the date of service of his application. The landlord further stated that he had not received a forwarding address in writing from the tenant and that he only had the tenant's employment address for service. I advised the landlord that he could pursue an order for substituted service with appropriate evidence, if it was necessary to do so in the future.

I also advised the landlord that the withdrawal of his application was without prejudice with respect to the limitation date. The landlord stated that this tenancy ended on June 1, 2015 and that his application to retain the tenant's security deposit was made on June 15, 2015, within 15 days of the tenancy ending, as per section 38 of the *Act*. Therefore, any limitation date as per section 38 of the *Act* is extended if the landlord chooses to re-file his application, as he is within the time limits for his initial application. However, the landlord is subject to the ultimate 2 year limitation date, as per section 60

of the *Act*. Further, section 38 of the *Act* is only triggered if a written forwarding address is provided by the tenant, which the landlord said had not occurred here.

Conclusion

The landlord's entire application is withdrawn.

If the landlord chooses to re-file his application, the 15-day limitation date under section 38 of the *Act* is extended as his original application was filed within this time period. However, the landlord is subject to the ultimate 2 year limitation date, as per section 60 of the *Act*.

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: November 23, 2015

Residential Tenancy Branch

