



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, MND, MNSD, FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Applicant applied for an Order of Possession, a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, for a monetary Order for damage, to keep all or part of the security deposit, for “other”, and to recover the fee for filing this Application for Dispute Resolution. The rental unit was vacated in 2015 and there is, therefore, no need to consider the application for an Order of Possession.

The Applicant stated that the Application for Dispute Resolution and the Notice of Hearing were sent to the Respondent, via registered mail, although she cannot recall the date of service. The Representative for the Respondent stated that these documents were received by the Respondent and that he is representing her at these proceedings.

On December 06, 2016 the Applicant submitted 13 pages of evidence to the Residential Tenancy Branch. The Applicant stated that these documents were sent to the Respondent, via regular mail, on December 06, 2016. The Representative for the Respondent stated that these documents were not received.

The Representative for the Respondent stated that on December 11, 2016 or December 12, 2016 the Respondent submitted 10 pages of evidence to the Residential Tenancy Branch. He stated that this evidence was served to the Applicant, via express mail, on December 11, 2016 or December 12, 2016. The Applicant stated that these documents were not received.

The parties were advised that none of the documents submitted in evidence would be accepted as evidence for these proceedings, as the other party does not acknowledge

receipt of the evidence. The parties were advised that I would adjourn the matter to allow for re-service of this evidence if this hearing proceeded. As this hearing did not proceed, for reasons that will be outlined later in this decision, I determined there was no need to adjourn this hearing.

Issue(s) to be Decided

Is the Applicant entitled to compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

Background and Evidence

The Applicant and the Representative for the Respondent agree that:

- the Respondent and the Representative for the Respondent lived together in the rental unit;
- this tenancy was the subject of a dispute resolution proceeding on December 11, 2015;
- the Representative for the Respondent was named in the Application for Dispute Resolution that was considered on December 11, 2015;
- after the hearing on December 11, 2015 the Applicant was granted authority to retain the security deposit for the rental unit and she was granted a monetary Order naming the Representative for the Respondent;
- all of the issues in dispute in this Application for Dispute Resolution were considered at the proceedings on December 11, 2015.

Analysis

Res judicata is a rule in law that stipulates when a final decision, determined by an Officer with proper jurisdiction and made on the merits of the claim, is reached; those issues cannot be reconsidered in a subsequent application.

The evidence shows that all of the issues in dispute at these proceedings were considered at a dispute resolution hearing on December 11, 2015 and that the Landlord has been awarded compensation for these claims. I therefore find that the rule of res judicata applies and that the Landlord cannot file another Application for Dispute resolution naming the same matters, even though she has named a different party.

Conclusion

As the issues in this Application for Dispute Resolution have been previously determined, I dismiss this Application for Dispute Resolution, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: December 22, 2016

Residential Tenancy Branch