



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, O, FF

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of double the amount of the security and pet damage deposits, pursuant to section 38;
- other unspecified remedies; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 45 minutes. The two tenants (male and female) attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The male tenant testified that the landlord was served with the tenants' application for dispute resolution, notice of hearing, written evidence and amendment to the application, by way of mail requiring signatures. When I asked about the dates of service, the male tenant spent approximately twenty minutes of the hearing time looking through his paperwork. He directed me to approximately five different exhibits in his voluminous written evidence package. He provided me with approximately four different dates of service. He also referenced approximately four different Canada Post tracking numbers. Yet, he did not know which packages were served on which dates after I provided him with ample time during the hearing in order to find this information.

I also questioned the tenants about the amount of their monetary claim. The male tenant spent approximately ten minutes of the hearing time going through his

documents in order to locate the amount that the tenants were claiming. Initially, in the tenants' application filed on August 2, 2017, the tenants applied for \$5,149.34. The tenants then filed an amendment form on September 22, 2017, to reduce their monetary claim to \$1,179.28. A monetary order worksheet, dated August 2, 2017, indicates this amount of \$1,179.28. The male tenant then stated that he did not intend to reduce the monetary claim, but rather to increase it to \$5,179.28. When I asked whether the tenants had filed a subsequent amendment form to increase the monetary amount, he stated that they had not. He said that he referenced the original amount in his cover letter, dated August 2, 2017.

Pursuant to section 59(2)(b) of the *Act*, an application must include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings. The purpose of the provision is to provide the landlord with enough information to know the tenants' case so that the landlord can respond. I find that the tenants amended their monetary claim to reduce it by more than \$4,000.00 and then claimed that they intended to increase it. They did not file the proper amendment form to increase their claim. The landlord did not appear at this hearing to confirm that he had notice of the increased monetary claim or to consent to it.

I also find that the tenants failed to prove service in accordance with section 89(1) of the *Act*. After spending approximately twenty minutes of the hearing time going through their paperwork, I was given five different exhibits, with four different dates and four different tracking numbers that the tenants were themselves confused about.

For the above reasons, I informed the tenants that I was dismissing their application with leave to reapply, except for the \$100.00 application filing fee. I notified them that they would be required to file a new application and pay a new filing fee if they wished to pursue this matter further against the landlord.

I explained the hearing process to the tenants, encouraged them to seek assistance from information officers at the Residential Tenancy Branch, consult a lawyer for legal advice, and use an agent to assist them with the hearing, if necessary. I notified them that they would be required to prove service at the next hearing, be prepared to give evidence at the start of the hearing, and have a clear idea of their monetary claim including the proper way to apply for a defined amount with supporting evidence.

Conclusion

The tenants' application to recover the \$100.00 application filing fee is dismissed without leave to reapply.

The remainder of the tenants' application is dismissed with 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 *Residential Tenancy Act*.

Dated: February 01, 2018

Residential Tenancy Branch