



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC MNSD FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on September 28, 2018. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss under the Act;
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and,
- to recover the cost of the filing fee.

Both parties attended the hearing and provided testimony. The Tenant confirmed receipt of the Landlord's application package and did not take issue with the service of this package. The Landlord did not submit any evidence. The Tenant stated his evidence was hand delivered to the Landlord's mailbox. However, the Tenant did not provide any proof of service. The Landlord denies getting this evidence. Since the Tenant was not able to prove that his evidence was served in accordance with the Act, I will not consider it any further, as I am not satisfied it has been sufficiently served.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note the parties have had a previous arbitration hearing, where the security deposit was already dealt with. As such, I find I have no jurisdiction to consider this issue any further. The previous orders about the security deposit remain unchanged. The only issue remaining for this hearing is whether or not the Landlord is entitled to a monetary order for damage or loss under the Act.

Issues to be Decided

- Is the Landlord entitled to a monetary order for damage or loss under the Act?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence, and Analysis

The Landlord stated that he is looking for \$3,000.00 in compensation for items the Tenant stole when he moved out of the furnished rental unit. The Landlord did not complete a monetary order worksheet nor had he itemized or detailed the different items he was seeking. The Landlord provided a round figure estimate for items he claims the Tenant took, without any breakdown as to how he arrived at the amount he is claiming. The Landlord provided zero documentary evidence for this hearing to show what items were allegedly stolen, or how much they cost.

The Tenant explicitly denied taking any of the Landlord's items, and says the Landlord is only filing this application as retribution because he lost the previous hearing.

I have reviewed the statements from both parties, and I turn to the following rules of procedure:

2.5 Documents that must be submitted with an Application for Dispute Resolution

To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:

- ***a detailed calculation of any monetary claim being made;***
- *a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and*
- *copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17 [Consideration of new and relevant evidence].*

When submitting applications using the Online Application for Dispute Resolution, the applicant must upload the required documents with the application or submit them to the Residential Tenancy Branch directly or through a Service BC Office within three days of submitting the Online Application for Dispute Resolution.

I note the Landlord's claim is for a \$3,000.00, and is composed of many different items only generally mentioned on the application form. I also note the Landlord submitted zero documentary evidence to support what items were present when the Tenant moved in, what items were present when the Tenant moved out, what was missing, and how much each item is worth. The Landlord's testimony was vague with respect to what was stolen.

I find it is prejudicial to the respondent to not have a monetary order worksheet, showing how the Landlord arrived at the amount he listed. I am also mindful that the Landlord has provided no evidence to support that the Tenant stole any furnishings from the unit. Without a monetary order worksheet, it is difficult for me to understand the nature and basis of the application.

In an application for monetary compensation, the burden of proof is on the applicant to prove that basis for their claim. In this case, I find the Landlord has not sufficiently done this. Further, the Landlord did not submit the required documents (monetary order worksheet detailing the monetary claim being made). I dismiss his claim without leave to reapply.

Conclusion

The Landlord's application is dismissed in full, 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 *Residential Tenancy Act*.

Dated: October 1, 2018

Residential Tenancy Branch