



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR-S, FF

Introduction

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

- a monetary order for unpaid rent pursuant to section 67;
- 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;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony.

Preliminary Issue

At the outset it was clarified with both parties that a cross application was filed by the tenant (File Number listed on the cover page of this decision). A review of that file on the Residential Tenancy Branch Database shows the status as "closed". A review of the decision by the Arbitrator dated June 13, 2018 shows that in that application filed by the tenant for an order cancelling a 10 Day Notice (CNR) and a request for the landlord to make emergency repairs (ERP) was dismissed. In that hearing testimony by both parties confirmed that the owners of the property shared living accommodations with the tenant. Section 4 of the Act applied in that the Residential Tenancy Act does not apply to this relationship and the Residential Tenancy Branch has no jurisdiction in that matter. In this case, both parties confirmed the previous details provided and as such, I also find that the Residential Tenancy Act does not apply in this case. I find that there is no jurisdiction to proceed with this application. Therefore, I dismiss the application without leave to reapply.

Conclusion

I order that the application be dismissed without leave to reapply due to the lack of jurisdiction under 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: October 29, 2018

Residential Tenancy Branch