

DECISION AND REASONS

Dispute Codes: *MNSD, MNR, FF.*

Introduction.

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

On July 23, 2009, the landlord applied for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in satisfaction of his claim. The landlord filed his claim against two tenants who rented the rental unit. On September 01, 2009, the landlord filed for bankruptcy and a receiver was appointed by the Supreme Court of BC. At this hearing, the landlord was represented by the receiver.

The tenant applied for the return of double his security deposit and was represented at the hearing, by his advocate. However, since the tenant made his application on October 14, 2009, after the landlord filed for bankruptcy, the advocate agreed that the tenant would have to file an application to the Supreme Court, to be named as a creditor against the landlord's assets. Therefore, this hearing did not address the tenant's claim.

The receiver who represented the landlord stated that he did not have adequate information to pursue his application and requested that his application be withdrawn with leave to reapply.

Analysis

Based on the verbal and documentary evidence of both parties, I find that in order to make a monetary claim against the landlord, the tenant must make application to the Supreme Court to be named a creditor against the landlord's assets, as no action or proceeding may be taken or continued against the receiver without leave of the Supreme Court.

The receiver requested that the landlord's application be withdrawn to give the receiver opportunity to gather information and evidence to support the application for a monetary order. Given that the landlord filed for bankruptcy on September 01, 2009, I find that the receiver's request for additional time, is reasonable and accordingly, I dismiss this application with leave to reapply.

Conclusion

The tenant must make application to the Supreme Court, to be named as a creditor against the landlord's assets. The landlord's application is dismissed with leave to reapply.

Dated November 12, 2009.

Dispute Resolution Officer