



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This is an application brought by the Landlord requesting a monetary order in the amount of \$1461.20 and requesting recovery of the \$50.00 filing fee

The applicant testified that the respondent was served with notice of the hearing by registered mail that was mailed on November 12, 2015; however the respondent did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing. I therefore conducted the hearing in the respondent's absence

All testimony was taken under affirmation.

Issue(s) to be Decided

At the beginning of the conference call the applicant stated that the only reason he had applied for dispute resolution was to counter the tenants application, however since the tenant has withdrawn his application he is willing to also withdraw his claim too, except for the request for the filing fee.

Therefore the only issue I dealt with is whether or not to order recovery of the landlords filing fee.

Background and Evidence

The landlord testified that on more than one occasion he attempted to resolve the issue with the tenant so that neither of them would have to go through dispute resolution, and that the tenant had informed him he would not pursue dispute resolution.

The landlord further testified that after, he thought, the matter had been resolved the tenant did apply for dispute resolution, and therefore he filed his counterclaim.

The landlord stated that since the tenant has withdrawn his claim, he too is willing to withdraw his claim except for the filing fee. The reason he believes the tenant should pay the filing fee is because it was a cost that would not have been required had the tenant cooperated in the first place and not filed his original application.

Analysis

It is my decision that I will not allow the landlords claim for recovery of his filing fee.

The landlord testified that he would not have filed a claim against the tenant had the tenant not filed his own application in the first place, however both the landlord and the tenant had the right to file an application through the Residential Tenancy Branch.

The tenant withdrew his application prior to today's hearing stating that the issues had been resolved with the landlord, and now the landlord has decided to withdraw his application as well.

It is my decision that, if the parties resolve their issues and decide to withdraw their applications against the other, they must each bear the cost of the filing fee they paid.

Conclusion

The landlord withdrew his monetary claim against the respondent at the beginning of the hearing.

The landlord's application for recovery of his filing fee is denied.

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: December 09, 2015

Residential Tenancy Branch

