

Decision

Dispute Codes: MNR, MND, FF

Introduction

This hearing dealt with the landlord's application for a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, regulation or tenancy agreement / and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony.

The landlord testified that as she does not know the tenant's residential address, she attempted to serve the application for dispute resolution and notice of hearing (the "hearing package") on the tenant at the tenant's workplace. The landlord testified that the tenant threw the hearing package on the floor and behaved in a threatening manner toward the landlord.

Issues to be decided

- Whether the landlord is entitled to any or all of the above under the Act, regulation or tenancy agreement

Background and Evidence

The landlord testified that pursuant to a written tenancy agreement, the month-to-month tenancy began in September 2005. Monthly rent remained unchanged from \$1,575.00 for the duration of the tenancy. A security deposit of \$787.50 was collected at the outset of tenancy.

Arising from rent which was unpaid when due, the landlord testified that she served the tenant with a 10 day notice to end tenancy for unpaid rent. Thereafter, the tenant vacated the unit on a specific date unknown to the landlord, but understood to be sometime during July 2010. The tenant left no forwarding address. When the landlord undertook to enter the unit, she found that the tenant had changed the locks. When

access was finally gained, the landlord determined that there was damage to the unit, that considerable rubbish needed to be removed, and the unit was in need of extensive cleaning. Subsequently, the landlord found new renters effective September 15, 2010.

The landlord seeks a monetary order as compensation for unpaid rent, loss of rental income, costs associated with repairs to damage, rubbish removal and cleaning required in the unit, in addition to retention of the security deposit.

While the landlord acknowledges having copies of the tenancy agreement, the 10 day notice to end tenancy and miscellaneous receipts and photographs, it appears to be the result of a misunderstanding whereby no copies of any of this evidence have been submitted to the Residential Tenancy Branch. It is further understood that neither have copies of all the landlord's documentary evidence been provided to the tenant, in part at least, because of the landlord's concern about the tenant's potentially threatening behavior.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Sections of the Act which bear direct relevance to the circumstances of this dispute are as follows:

Section 89: Special rules for certain documents (Part 6, Division 1 – How to Give or Serve Documents)

Section 71: Director's orders: delivery and service of documents

Section 38: Return of security deposit and pet damage deposit

Section 39: Landlord may retain deposits if forwarding address not provided

Residential Tenancy Branch Rules of Procedure # 3 speaks to “Serving the Application and the Applicant's Evidence.” Specifically, Rule 3.1 addresses

Documents that must be served; Rule 3.2 addresses If a respondent avoids service; Rule 3.3 addresses Proof of service required at the dispute resolution proceeding; Rule 3.4 addresses Evidence to be filed with the Application for Dispute Resolution; Rule 3.5 addresses Evidence not filed with the Application for Dispute Resolution; and Rule 3.6 addresses Notice of other physical evidence.

I find that as the landlord has neither provided the Residential Tenancy Branch nor the tenant with copies of all relevant documentary evidence, the landlord's application is presently hereby dismissed with leave to reapply. The landlord also has the option of contacting an Information Officer in order to obtain additional information about service of documents.

Conclusion

The application is hereby dismissed with leave to reapply.

DATE: January 5, 2011

Dispute Resolution Officer