



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This hearing dealt with two landlord Applications for Dispute Resolution under the *Residential Tenancy Act* (the “Act”). The applications have been joined as the matters were related to the same tenancy agreement. The landlord has applied under the Act to obtain an order of possession for unpaid rent, and for a monetary order for unpaid rent.

One of the applicant landlords and one of the respondent tenants appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The landlord testified that the tenants were served the Notice of a Dispute Resolution Hearing by registered mail. A copy of the registered mail receipt with tracking number was provided in advance of the hearing as documentary evidence and was addressed to tenants at the rental unit. One of the tenants did attend the hearing, however, the remaining three tenants did not attend the hearing. The tenant stated that one of the other parties to this dispute was his son, and was not available to attend the hearing. I find that the tenants were served with the Notice of a Dispute Resolution Hearing in accordance with the *Act*.

Preliminary Matter

The tenant provided affirmed testimony that the rental unit was vacated on either August 8 or 10, 2012. As a result, the landlord requested to withdraw their application for an order of possession as the rental unit has been vacated since submitting an application for dispute resolution. The hearing continued with the landlord’s application for a monetary order for unpaid rent.

Issue to be Decided

- Should the landlord be granted a monetary order for unpaid rent?

Background and Evidence

The parties agree that a verbal tenancy agreement began on or about September 1, 2007. Monthly rent in the amount of \$800.00 was due on the first day of each month. Over the course of the tenancy the monthly rent increased to \$1,000.00 per month. The rent did not include utilities. No security deposit was paid at the start of the tenancy.

The tenant stated that he moved out of the rental unit approximately fourteen months ago. The tenant testified that he provided verbal notice to the landlord. The landlord disputed the tenant's testimony by stating that the tenant did not provide any notice that he was vacating. The landlord stated that the tenant advised that the tenant's son would be moving into the rental unit, however, the tenant did not provide written notice that he was vacating the rental unit.

The landlord affirmed that rent for August 2012 has not been paid. The landlord is seeking a monetary order of \$1,000.00 for rent owed for August 2012. The landlord confirmed service of the 10 Day Notice for Unpaid Rent or Utilities (the "Notice") dated August 2, 2012, by personal service to the tenants on August 2, 2012, and with an effective date of August 2, 2012 which automatically corrects under the *Act* to August 12, 2012. The tenants did not dispute the Notice or pay the rent in five days, according to the landlord.

Analysis

In the case of verbal agreements, I find that where terms are clear and both the landlord and tenant agree on the interpretation, there is no reason why such terms cannot be enforced. However, when the parties disagree with what was agreed-upon, the verbal terms, by their nature, are virtually impossible for a third party to interpret when trying to resolve disputes. In this matter, both parties agreed that a verbal tenancy agreement began on or about September 1, 2007, and monthly rent in the amount of \$1,000.00 was due on the first day of each month.

Notice from tenant – The tenant stated that he provided verbal notice that he was vacating the rental unit. The landlord disputes this tenant's testimony. Section 52 of the *Act* states:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

I find based on the tenant's testimony, that the tenant did not provide the required notice under the *Act* for the notice to be effective. I, therefore, find that the tenant was still bound by the verbal tenancy agreement at the time that rent was due in August 2012.

Claim for unpaid rent— The landlord testified that rent for August 2012 has not been paid. Pursuant to section 26 of the *Act* a tenant must pay rent when it is due in accordance with the tenancy agreement. Based on the above, I find that the tenant has failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. I find the landlord has met the burden of proof and I award the landlord a monetary claim of **\$1,000.00** for rent owed for August 2012.

Conclusion

I find that the landlord has established a total monetary claim of \$1,000.00 as indicated above. I grant the landlord a monetary order under section 67 in the amount of **\$1,000.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: August 23, 2012

Residential Tenancy Branch