



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

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

- authorization to obtain a return of double his security deposit pursuant to section 38; and
- authorization to recover his filing fee for this application from the respondents pursuant to section 72.

Preliminary Issues – Tenant's Application Regarding Respondents JJ and SJ

The tenant and Respondent JJ, acting on behalf of himself and his wife, SJ, attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to discuss the tenant's application with one another. Respondent JJ confirmed that he and his wife received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail on May 17, 2013. I am satisfied that the tenant served Respondents JJ and SJ with a copy of his dispute resolution hearing package in accordance with the *Act*.

The tenant testified that he entered into an oral agreement with the other Respondent, AIN, to rent the premises as of December 19, 2012. He said that he understood that AIN was acting on behalf of the owners of this rental property, JJ and SJ. He testified that he paid AIN a \$500.00 security deposit on December 19, 2012, which has yet to be returned to him. He said that he was paying AIN \$1,000.00 in monthly rent. He testified that he ended his tenancy on or about March 19, 2013, but paid full monthly rent for March 2013 to AIN.

Respondent JJ testified that AIN never worked for him or his wife. Respondent JJ said that he rented these premises as of September 25, 2010 to two individuals, whom he believed were AIN's parents. He said that he never received any security deposit from AIN and did not know that anyone other than AIN's parents were residing in the rental unit. Respondent JJ testified that neither he nor his wife had ever heard of the tenant in this application until they received a copy of the tenant's dispute resolution hearing

package naming them as co-Respondents. Respondent JJ testified that AIN's parents, his tenants, vacated the rental unit in mid-March 2013 and the premises remain vacant.

The tenant confirmed that he never paid any security deposit directly to Respondents JJ or SJ. He confirmed that he was a sub-tenant of AIN, who allowed him sole access to the rental unit in exchange for \$1,000.00 in monthly rent.

Based on the evidence before me, I find that there was no residential tenancy agreement between the applicant and Respondents JJ and SJ. As such, I dismiss the tenant's application regarding Respondents JJ and SJ without leave to reapply.

Preliminary Issue – Tenant's Service of Hearing Package to Respondent AIN

The tenant testified that he sent Respondent AIN a copy of his dispute resolution hearing package by registered mail on May 17, 2013. As he believed that Respondent AIN was acting as the owner's agent in this matter and could receive mail at the dispute address, the tenant sent his hearing package to Respondent AIN at the dispute address. Based on the sworn testimony before me, I find that neither AIN's parents, the owners' tenants, nor AIN resided at the dispute address by April 1, 2013.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

In this case, I find that by the date the tenant sent the hearing package to the dispute address, Respondent AIN had no connection to that address either as an agent of the owners or as the place where AIN was carrying on business as a landlord. As such, I find that the tenant has not served his application to Respondent AIN in accordance with section 89 of the *Act*.

Conclusion

I dismiss the tenant's application naming JJ and SJ as Respondents without leave to reapply.

I dismiss the tenant's application naming AIN as a Respondent with leave to reapply.

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: August 15, 2013

Residential Tenancy Branch

