



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. To Cancel a Notice to End Tenancy for Unpaid Rent, issued on December 4, 2013.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Preliminary issues

Tenants' application

At the outset of the hearing, the landlord stated that these applicants are not tenants. The landlord stated the tenant (AO) is the only tenant listed in the tenancy agreement and (LI) is an occupant.

Filed in support of the landlord is a tenancy agreement dated August 29, 2013, which lists (AO) as the tenant. Clause 2 of that agreement lists (LI) to be living in the premises with the tenant as an occupant.

Filed in evidence is a copy of the 10 Day Notice to End Tenancy for Unpaid Rent, issued on December 4, 2013. The tenant (AO) is named in the notice.

The landlord stated the tenant (AO) vacated the premises on or about December 20, 2013, after receiving the Notice to End Tenancy; however, the occupants have failed to

leave. The landlord stated he has not accepted rent from the occupants as he does not want to enter into a tenancy.

The applicants stated they entered into a new signed tenancy agreement with the landlord. The landlord denied signing any agreement. A copy of this alleged agreement was not filed as evidence.

Based on the testimony and documentary evidence, I accept that the tenancy agreement was with (AO) and that (LI) in that agreement was an occupant. The notice to end tenancy was issued on December 4, 2013. Therefore, I find that (LI) and (SC) were occupants at the time the notice was issued and have no legal rights or obligation under the Act. Therefore, I dismiss their application to cancel a notice to end tenancy that was issued on December 4, 2013, due to lack of jurisdiction.

However, the tenants have alleged there is a new signed tenancy agreement which was entered into after December 20, 2013. The landlord denied signing that agreement. As that matter was not before me, I make no ruling or finding on the validity of that agreement.

Landlord's application

The landlord filed an application for dispute resolution. However, the landlord did not list the tenant (AO) as a respondent. (AO) is the tenant listed in the tenancy agreement and the named party on the notice to end tenancy. As a result, I find the landlord has not listed or notified the correct party as the parties listed are occupants and have no legal obligation or rights under the Act. Therefore, I dismiss his application with leave to reapply,

Conclusion

The application of the tenants' is dismissed for lack of jurisdiction.

The landlord's application is dismissed 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: January 31, 2014

