



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF, MNDC, RPP, FF

Introduction

This is an application to cancel a Notice to End Tenancy that was given for nonpayment of rent, a request for a Monetary Order for \$5000.00, and request for recovery of the \$50.00 filing fee.

Some documentary evidence and written arguments have been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issues are whether or not to cancel or uphold a Notice to End Tenancy, and whether or not the applicant has a monetary claim against the respondent.

Background and Evidence

On November 20, 2013 the landlord served a 10 day Notice to End Tenancy on the applicant.

The applicant testified that:

- He has never been in a tenancy agreement with the respondent/landlord.
- His roommate was the landlord's tenant, and it was his roommate that had signed the tenancy agreement.
- His roommate vacated the rental unit in November of 2013 and the respondent/landlord approached him to sign a tenancy agreement, however he has refused to sign any agreement with the respondent/landlord.
- He believes there is still some rent outstanding for the month of November 2013, as his roommate, the respondent/landlord's tenant, did not pay the full rent.
- No rent has been paid for the month of December 2013 or January 2014.

The respondent/landlord testified that:

- He has never had a tenancy agreement with the applicant, the tenancy agreement was with another party whose initials are P.D. and the applicant was simply a roommate of the actual tenant.

- The actual tenant gave him notice that he would be vacating, and subsequently did vacate, however the tenants roommate/applicant has refused to vacate.
- He attempted to come to a tenancy agreement with the applicant; however the applicant refused to do so, and therefore should have vacated when the tenant vacated.

Analysis

First of all it's my finding that a valid 10 day Notice to End Tenancy has been served and since there's no evidence to show the outstanding rent has ever been paid, I will not be canceling that Notice to End Tenancy.

Secondly it is my finding that I do have jurisdiction over the Notice to End Tenancy, as it names both the applicant and the actual tenant on the notice, and was served on the applicant who is an adult who was living with the actual tenant. I therefore will be issuing an Order of Possession to the landlord.

Thirdly, since both the applicant and respondent have testified that there has never been a landlord tenancy agreement between them, it's my finding that I have no jurisdiction over the applicant's request for a monetary claim, as he is simply a roommate of the actual tenant and has no standing in the landlord tenancy agreement.

Therefore if the applicant wishes to pursue a monetary claim against the respondent, he will have to do so through Small Claims Court.

Conclusion

The request to cancel a Notice to End Tenancy is dismissed without leave to reapply and I've issued an Order of Possession to the landlord that is enforceable two days after service on the applicant.

I decline jurisdiction over the monetary portion of this application.

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 14, 2014

Residential Tenancy Branch

