



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on February 3, 2014 in accordance with Section 89.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

At the outset of the hearing the landlord testified that he had obtained a monetary order against the male tenant in October 2013 for the amount of rent that was outstanding. He stated that while he had applied for the order against both tenants due to a service issue he was successful in obtaining the order against the male only.

Res judicata is the doctrine that an issue has been definitively settled by a judicial decision. The three elements of this doctrine, according to Black's Law Dictionary, 7th Edition, are: an earlier decision has been made on the issue; a final judgement on the merits has been made; and the involvement of the same parties.

While I accept that landlord has named two separate individuals in his respective claims, I find that the issues before me represent the involvement of the same parties. Residential Tenancy Policy Guideline 13 states that co-tenants are two or more tenants who rent the same property under the same tenancy agreement.

The Policy Guideline goes on to say that co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. As such the landlord may recover the full amount of any debt, in this case rent, from all or any one of the tenants.

As the landlord already has an order against one of the co-tenants in this tenancy I find that to file an Application against the other co-tenant is in fact the same as filing another

claim against the male tenant, as well, and therefore the two named individuals act as the same party.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for damage to the rental unit; and for money owed or compensation for damage or loss; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 67, and 72 of the *Act*.

Conclusion

As I have determined that this matter has already been adjudicated, I dismiss the landlord's Application in its entirety.

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: May 21, 2014

Residential Tenancy Branch

