



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an order of possession and a monetary for unpaid rent or utilities and for a monetary order for damage to the unit, site or property.

The landlord attended the hearing however, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing by registered mail on August 27, 2014, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any evidence from the landlord, and the only participant who joined the hearing was the landlord. The landlord testified that the documents were served in that manner and on that date and orally referred to a receipt issued by Canada Post bearing that date, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

During the hearing, the landlord advised that the tenant has moved out of the rental unit and the application for an order of possession is withdrawn.

The landlord gave affirmed testimony and provided evidentiary material in advance of the hearing, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for damage to the unit, site or property?

Background and Evidence

The landlord testified that the rental unit had been rented to a different person than the tenant named in the application. The landlord had a written tenancy agreement with that person, who left the tenant who is named in the application at the rental unit. The landlord does not have a tenancy agreement with the tenant named in the application, but each was to pay half of the rent. No copies of any tenancy agreements have been provided.

The landlord further stated that rent in the amount of \$950.00 per month is payable on the 1st day of each month, and the tenant failed to pay rent for the month of August, 2014. The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which has been provided, stating that the tenant failed to pay rent in the amount of \$950.00 that was due on August 5, 2014. The tenant paid \$450.00 after the 10 day period had expired, leaving a balance outstanding of \$500.00. The tenant vacated the rental unit sometime in August.

The landlord further stated that the screen door in the rental unit is broken and the tenant has left belongings in the rental unit, such as a sofa and bed, that are old and dirty and of little or no value. The landlord has not removed the items, but has changed the locks to the rental unit. A move-in condition inspection report was completed at the beginning of the tenancy with the first tenant, but no move-out condition inspection report has been completed; the landlord is not sure when the tenant vacated the rental unit. Repairs have not yet been made, so the landlord is not sure of the costs associated to the damages. The landlord only wishes to ensure that the landlord is entitled to remove the belongings and prepare the rental unit to re-rent.

Analysis

Firstly, with respect to the unclaimed property remaining in the rental unit, I have attached an excerpt of the regulations to the *Residential Tenancy Act*. The landlord may dispose of the tenant's property if the property has a value of less than \$500.00, but must not dispose of it until 60 days has passed, and must keep an inventory of it for 2 years.

With respect to the landlord's application for a monetary order for damage to the unit, site or property, the landlord has not yet completed a move-out condition inspection report and has not provided particulars of any damages. The *Act* requires a landlord to ensure that move-in and move-out condition inspection reports are completed, and the landlord may complete the move-out condition inspection report without the tenant

present if the tenant has abandoned the rental unit. I find that the application is premature, and I dismiss it with leave to reapply.

With respect to the application for a monetary order for unpaid rent or utilities, the landlord testified that each of the tenants was to pay half of the rent, but has not provided a copy of a tenancy agreement. If an agreement exists only with one tenant, then that tenant is responsible for the payment of rent, and any re-apportionment for roommates is left to the tenants. If the landlord has separate tenancy agreements for each of the tenants showing that each pays one half of the rent, the landlord needs to show that by providing a copy of the agreement, or both agreements. In this case, I have no evidence of what agreements were in place, and whether one or both tenants are responsible for the payment of rent. Therefore, I dismiss the application with leave to reapply.

Conclusion

For the reasons set out above, the landlord's application for an order of possession is hereby dismissed as withdrawn.

The balance of the landlord's application is hereby 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: October 20, 2014

Residential Tenancy Branch

