



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, O, FF

Introduction

This hearing was convened in response to the Application for Dispute Resolution, in which the Applicant applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, “other”, and to recover the fee for filing this Application for Dispute Resolution.

The Applicant stated that on January 16, 2015 the Application for Dispute Resolution, the Notice of Hearing and documents he wishes to rely upon as evidence were sent to the Respondent, via courier, by his legal counsel. The Respondent stated that he received these documents by registered mail on January 18, 2015; that the female Respondent has also seen the documents; and that he is representing the female Respondent at these proceedings.

On the basis of the evidence submitted, I find that the female Respondent has been served with these documents and that she is being represented at these proceedings by the male Respondent. As the male Respondent has acknowledged receipt of these documents, they were accepted as evidence for these proceedings.

The Respondent submitted no evidence in regards to these proceedings.

The Applicant and the Respondent were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent?

Background and Evidence

The Applicant and the Respondent agree that this tenancy was the subject of a dispute resolution proceeding on November 12, 2014. The spelling of the Respondents' surnames in that matter is slightly different than the Respondents' names in this matter.

The Applicant and the Respondent agree that on November 12, 2014 an Arbitrator granted the Landlord's application for an Order of Possession and a monetary Order for \$3,400.00, which relates to unpaid rent for the period ending on September 19, 2014. These Orders reflect the incurred spelling of the Respondents' names as was provided by the Landlord on that Application for Dispute Resolution.

The Applicant and the Respondent agree that this tenancy was the subject of a direct request proceeding on December 09, 2014. The Landlord and the Tenant agree that on December 09, 2014 an Arbitrator granted the Landlord's application for an Order of Possession and a monetary Order for \$1,850.00, which relates to outstanding rent that accrued after September 19, 2014. These Orders reflect the correct spelling of the Respondents' names as was provided by the Landlord on that Application for Dispute Resolution.

The Applicant and the Respondent agree that the parties entered into a written tenancy agreement for a tenancy that began on April 01, 2014. The parties agree that the Respondents agreed to pay monthly rent of \$925.00 on every second Friday, with the first payment being due on April 04, 2014.

The Applicant and the Respondent agree that the Respondents currently owe \$6,175.00 in rent.

The Applicant and the Respondent agree that a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of September 11, 2014, was posted on the door of the rental unit on September 01, 2014. The Notice declared that the Respondents owed \$7,100.00 in rent that was due on December 26, 2014.

At the conclusion of the hearing the Applicant and the Respondent both stated that on March 23, 2014 the Respondent paid \$5,000.00 to the Applicant. The parties agree that this was a non-refundable deposit that would be applied to the purchase of the rental unit if it was purchased within three years of the start of the tenancy. The parties agree that this deposit was to be forfeited if the Respondent did not purchase the unit.

Analysis

Before considering the merits of this Application for Dispute Resolution, I must determine whether this application has jurisdiction under the *Residential Tenancy Act* (Act).

On the basis of the undisputed evidence that the Respondent paid \$5,000.00 to the Applicant which is to be applied to the purchase of the rental unit if the Respondent purchases the home within three years of the start of the tenancy, I find that the Respondent has an interest in the property that goes beyond exclusive possession and occupation of the rental unit.

I find that the \$5,000.00 payment transferred an interest in the rental unit which goes beyond the relationship of a landlord and tenant. I find that the Respondent's financial interest in the property is beyond the scope of the *Act* and I therefore find that I do not have jurisdiction over this matter.

Conclusion

I dismiss the Application for Dispute Resolution. The claims do not fall under the *Act* as the Respondent has an interest in the property beyond that of a tenant. The Applicant has the option of pursuing his claim through a court of proper jurisdiction.

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: February 06, 2015

Residential Tenancy Branch

