



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, FF

Introduction

This hearing was convened by way of conference call in response to the landlords' application for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlords to the tenant, was done in accordance with section 89 of the *Act*; served in person on August 15, 2014 and with the amended application in person on August 24, 2014.

The female landlord appeared and gave sworn testimony. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Are the landlords entitled to a Monetary Order for unpaid rent?

Are the landlords entitled to a Monetary Order for damage to the unit, site or property?

Background and Evidence

The landlord attending testified that this tenancy started on September 01, 2013. Rent for this unit was \$650.00 per month due on the 1st of each month.

The landlord testified that they heard people talking in the unit and posted a 24 hour notice of inspection. Upon entering the unit they found two total strangers living in the

unit. The landlords determined that the tenant had sublet the unit without the landlord's permission to these two tenants a male and a female. The landlord testified that they do not know when the tenant moved from the rental unit.

The landlord testified that they wanted to help this couple so the landlords entered into a new tenancy agreement with the couple on January 01, 2014. As there were now two tenants living in the unit they agreed to pay \$750.00 in rent. The female tenant was on social assistance and was able to pay half of the rent; however, the male tenant was not working and the remainder of the rent was not paid.

I asked the landlord if the tenant named on the application for dispute resolution owed any rent. The landlord responded that it was the new tenants who owed rent but the tenant named on the application should not have sublet to this couple.

The landlord became quite agitated and blamed the Residential Tenancy Branch for the error in not naming the two current tenants on the application.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the landlord. The landlords have filed this application against the previous tenant. When asked during the hearing if the previous tenant owed any rent the landlord responded that it was the new tenants that owed the rent.

When there is a previous tenancy agreement in place and the landlords enter into a new tenancy agreement with different tenants for the same unit then the previous tenancy ceases and the terms of the tenancy agreement no longer has any effect.

By entering into a new tenancy agreement with the new tenants on January 01, 2014 and in determining that it is these tenants that owe rent to the landlords then the landlords should have filed their application naming one or both of the new tenants. The landlords cannot file a claim against the previous tenant for unpaid rent after he vacated the rental unit even if he had sublet the rental unit without the landlords' permission. The

landlords entered into a new tenancy agreement with the new tenants and therefore the unpaid rent is the responsibility of the new tenants and not the tenant named on the landlords' application.

I find therefore that the landlords' application against the previous tenant has no merit. The landlords must therefore bare the cost of filing their own application.

Conclusion

Due to the reasons given above it is my decision that the landlords' application is dismissed without leave to reapply against the tenant named on that application.

The landlords are at liberty to file a new application naming one or both of the tenants on the tenancy agreement that was entered into on January 01, 2014.

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: March 09, 2015

Residential Tenancy Branch

