



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The respondent HS attended the hearing. The landlord CP attended the hearing. The landlord CP confirmed that he had authority to act on behalf of the landlord ST. The tenant DS did not attend this hearing, although I waited until 1133 in order to enable the tenant DS to connect with this teleconference hearing scheduled for 1100.

Background

This dispute concerns a tenancy that began 1 May 2014. The landlords received the keys to the rental unit in the mail some time at the end of July 2014.

Preliminary Issue – Parties to the Proceedings

The respondent HS stated that she never signed the tenancy agreement and never lived at the rental unit. The respondent HS is the former spouse of the tenant DS. The respondent HS speculates that the landlords found her name on rent cheques the tenant DS issued from HS and DS's joint account.

The landlord CP stated that he was told to add the respondent HS to the application by this Branch.

The landlords provided a copy of the tenancy agreement. The tenancy agreement is between the landlords and the tenant DS.

I find that this tenancy agreement was between the landlords and the tenant DS. The respondent HS has no rights or responsibilities in respect of that agreement and is not a proper party to this claim.

The landlords' claim against the respondent HS is dismissed without leave to reapply.

Preliminary Issue – Service of Dispute Resolution Package

The respondent HS stated that the address the landlords used for service ceased to be the tenant DS's address on or about 20 March 2014. The only reason the respondent HS received the mailing was because the respondent HS has mail forwarding arranged for that address.

The respondent HS stated that the tenant DS now lives somewhere in the Eastern United States. The respondent HS stated that she is having difficulties effecting service on the tenant DS. The respondent HS provided the tenant DS's address.

The landlord CP stated that he was told by the Residential Tenancy Branch to serve at this address as it was the only address that he had.

Service of the dispute resolution package must be carried out in accordance with section 89 of the Act:

- (1) An application for dispute resolution ... when required to be given to one party by another, must be given in one of the following ways:
 - (a) by leaving a copy with the person;
 - (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
 - (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
 - (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;...

The address at which the tenant DS was served does not comply with subsection 89(1) as the address is neither the address at which the tenant resides or the forwarding address provided by the tenant. This was made clear by the respondent HS who stated that the parties last resided at that address prior to the beginning of the tenancy in issue.

As such, the landlords' application as against the tenant DS is dismissed with leave to reapply as the dispute resolution package was not served on the tenant DS in accordance with the Act. Notice of a claim is both a requirement of the Act and a requirement of the administrative principles of natural justice. I explained this to the landlord CP at the teleconference hearing.

The landlord CP was understandably frustrated with this result and expressed this frustration freely. I explained to the landlord CP at the hearing that he could reapply using the new address for service as he had evidence that the tenant DS resided at that address by way of the respondent HS's statements at this hearing.

Conclusion

The landlords' application as against the respondent HS is dismissed without leave to reapply.

The landlords' application as against the tenant DS is dismissed with leave to reapply. Leave to reapply is not an extension of any relevant timeline.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: May 15, 2015

Residential Tenancy Branch

