



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, O, FF

Introduction

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

- an order to allow the tenants to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- other unspecified remedies;
- authorization to recover the filing fee for this application from the landlords, pursuant to section 72.

The landlord TK ("landlord") and the tenant JS ("tenant") attended the hearing and were each given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant testified that he had authority to represent his wife, the other tenant WS named in this Application, as an agent at this hearing.

Landlord MS, the other landlord named in this application, joined the hearing late at approximately 12:06 p.m., when the hearing commenced at 11:00 a.m. I advised landlord MS about the proceedings, what had occurred in his absence and the fact that the parties had reached a settlement.

The tenant confirmed that he served landlord MS with the tenants' application for dispute resolution hearing package ("Application") on June 5, 2015 by way of registered mail. The tenants provided a Canada Post receipt, tracking number and printout from the Canada Post website, indicating that landlord MS received and signed for the package. In accordance with sections 89 and 90 of the *Act*, I find that landlord MS was deemed served with the tenants' Application on June 10, 2015, five days after its registered mailing.

Preliminary Issue – Landlord's Adjournment Request

The tenant confirmed that he served the landlord with the tenants' Application on June 5, 2015, by way of registered mail to an address found during a title search of landlord MS's properties. The tenants provided a Canada Post receipt and tracking number as proof of service with their Application. The tenants also provided a printout of the Canada Post tracking number for this

service, which indicated that the package was being returned to its sender. The tenant confirmed that he also served the landlord with the tenants' Application by way of email on June 5, 2015, and by leaving a copy at the front desk counter with the tenants' rent cheque at the end of June 2015. The landlord testified that he was not served with the Application by the tenants, that he did not receive any copies of the Application by way of registered mail, email or at the front counter. The landlord stated that he received a partial copy of the Application from landlord MS, who received the tenants' Application.

The landlord initially requested an adjournment of the tenants' Application. While I was giving oral reasons regarding the landlord's adjournment request, the landlord then testified that he wished to settle this matter at this hearing. As both parties agreed to a settlement during this hearing, I do not find it necessary to include evidence, testimony or reasons regarding the landlord's adjournment request.

Preliminary Issue – Proper Landlords named as Respondents

The landlord confirmed that he is the true landlord for this rental unit. He stated that he has a sublease tenancy agreement with the tenants at this rental unit. The landlord testified that he also has a corporate relocation agreement with landlord MS. The landlord explained that he deals with all tenancy matters regarding this rental unit and that he is the only person that performs the role of the landlord. The landlord confirmed that he had full authority to settle this matter with the tenants and that landlord MS had no authority to do so. The landlord confirmed that landlord MS was named improperly as a respondent in this proceeding.

Landlord MS testified that he is not the landlord for this rental unit and that only the landlord, TK, was the true landlord for this rental unit. Landlord MS testified that he has a tenancy agreement with the landlord. Landlord MS confirmed that the landlord has a sublease agreement with the tenants for this rental unit. Landlord MS explained that he does not deal with any tenancy matters regarding this rental unit, only the landlord does.

I find that the landlord, TK, is the proper landlord for this rental unit and that he was named as a proper respondent in this Application. The tenancy agreement was signed by the landlord, not landlord MS. The tenant stated that he deals with the landlord regarding tenancy matters for this tenancy, including paying rent and regarding the cable television package that is the subject of this dispute. Both parties agreed that the landlord is the proper landlord for this rental unit. Landlord MS does not perform any landlord functions, he does not have a tenancy agreement with the tenants and he does not act as an agent for the landlord. Accordingly, this decision refers to only the landlord, TK, and the two tenants. Any agreement made between the parties is legal, binding and enforceable between these parties only.

Issues to be Decided

Are the tenants entitled to an order to allow the tenants to reduce rent for repairs, services or facilities agreed upon but not provided?

Are the tenants entitled to other unspecified remedies?

Are the tenants entitled to recover the filing fee for this Application from the landlord?

Background and Evidence

The tenancy agreement indicates that this tenancy began on November 1, 2014 for a fixed term to end on April 31, 2015, after which it transitions to a month-to-month tenancy. Monthly rent in the amount of \$3,750.00 is payable on the first day of each month. A security deposit of \$1,875.00 was due for this tenancy.

The tenants seek the reinstatement of a premium television package at their rental unit, which they say the landlord discontinued after six months of usage in the rental unit. The landlord indicated that this service is called a “premier” package and that it was simply a promotion with the cable company for 6 months and then it ended. The tenants also seek to recover the \$50.00 filing fee for their Application.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

The landlord and two tenants agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. The landlord agreed to reinstate the premier television package from “company S” at the rental unit by July 23, 2015;
2. The tenants agreed to pay \$50.00 each month to the landlord, at the same time that rent is paid each month, for the cost of this premier television package at the rental unit;
3. The landlord agreed to pay the remaining monthly cost of this premier television package at the rental unit, after the tenants’ monthly payment has been accounted for;
4. Each month, the tenants agreed to deliver rent cheques each month to the landlord’s service address, provided by the landlord at this hearing, and the tenants agreed to send a confirmation email following each delivery each month;
5. Both parties agreed that the landlord is the proper landlord for this sublease tenancy at this rental unit with these tenants;
6. Both parties agreed to amend the tenancy agreement to include only this landlord’s name and service address as a “landlord” party;

7. The tenants agreed to only deal with this landlord, not landlord MS, with respect to all matters arising out of this tenancy, from the date of this hearing until the end of this tenancy;
8. The tenant withdrew the tenants' Application to recover the \$50.00 filing fee for this Application;
9. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the tenants' Application at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

Conclusion

The tenants' Application to recover the \$50.00 filing fee for this Application is withdrawn.

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: July 24, 2015

Residential Tenancy Branch

