



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 2PATHS SOLUTIONS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

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

- a monetary order for unpaid rent, 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 tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1333 in order to enable the tenant to connect with this teleconference hearing scheduled for 1300. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The agent testified that the landlord served the tenant with the dispute resolution package (including all evidence before me) on 8 July 2015 by registered mail. The landlord provided me with a Canada Post tracking history that showed that the registered mailing was returned to the landlord unclaimed. The agent testified that the mailing was sent to the tenant's forwarding address. On the basis of this evidence, I am satisfied that the tenant was deemed served with the dispute resolution package pursuant to sections 89 and 90 of the Act.

The landlord's application involves claims that were settled by way of a private settlement agreement. At the hearing I raised my concern that I did not have jurisdiction over the landlord's claim because of the settlement agreement.

Issue(s) to be Decided

Do I have jurisdiction to consider the landlord's claim?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the agent, not all details of the submissions and / or arguments are reproduced here.

This tenancy began 1 May 2012. The tenancy ended on or about 2 May 2015. Monthly rent for the duration of the tenancy was \$1,895.00.

On 13 April 2015, the landlord and tenant entered into a document titled "General Release and Settlement Agreement". In the agreement the tenant agrees to a debt principal amount of \$12,545.00 and agrees to pay it over a period of thirty months.

On 14 May 2015, the landlord and tenant attended a dispute resolution hearing. The parties informed the arbitrator at that hearing that they had reached a settlement. The parties did not record the settlement as a decision of this Branch at that time. The landlord did not seek any orders from the Residential Tenancy Branch.

Analysis

The jurisdiction of the Act, and in turn my jurisdiction, derives from subsection 2(1) of the Act:

- 2 (1)** Despite any other enactment..., this Act applies to tenancy agreements, rental units and other residential property.

"Tenancy agreement" is defined in section 1 of the Act:

"tenancy agreement" means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;

Section 63 of the Act contemplates the Residential Tenancy Branch enforcing settlements where both parties appear. The parties could have elected to register their settlement as an agreement of this Branch at their hearing 14 May 2015, but they did not do so. If they had elected to register their settlement, any orders necessary to implement that settlement would have been issued by the Branch at that time.

I am not of the view that I can ignore this agreement and reopen the matters that the parties agreed to by way of that settlement agreement in order to take jurisdiction over this matter. This agreement, among others, is an agreement regarding a debt. It is not a tenancy agreement, it is not respecting possession of a rental unit, and it is not regarding residential property.

On the basis of subsection 2(1) of the Act, I find that I do not have jurisdiction over this matter as a result of the general release and settlement agreement entered into on 13 April 2015.

Conclusion

I decline jurisdiction over this matter. This decision does not affect the landlord's ability to apply for remedies related to enforcement of the settlement agreement from a body of competent jurisdiction.

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: December 18, 2015

Residential Tenancy Branch

