



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR

Introduction

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

- a monetary order for unpaid rent under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The landlord did not submit any documentation for this hearing. The tenant submitted some documents to the Branch but not to the landlord. The landlord testified that he did not receive any documentation from the tenant even though the tenant claims he sent it to the landlord. The tenant was unable to provide proof that they had served the landlord their evidence as per Rule of Procedure 3.16; accordingly I have not considered the tenants' evidence in making this decision.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The tenancy began on or about April 1, 2014 and ended on October 31, 2014. Rent in the amount of \$1200.00 is payable in advance on the first day of each month. The landlord testified that the tenant did not pay any rent during the full six months. The landlord testified that the parties had a verbal agreement. The landlord is seeking \$7200.00 of unpaid rent and the recovery of the \$100.00 filing fee.

The tenant's advocate submitted the following. The advocate submits that this was not a tenancy agreement and that the tenant was an employee of the landlord. The advocate submits that this is not a residential property; it is a gas station with offices above it. The advocate submits that the tenant was hired as the manager and part of his obligation was to be on the property 24-7 in case of emergencies. The advocate submits that the subject unit is a poorly converted office. The advocate submits that there was never any discussion or agreement about rental payments as this was "an employment contract and not a tenancy agreement" and that the unit was included as part of his employment.

Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the landlord must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. The landlord did not provide any documentation for this hearing to support his claim or to substantiate his testimony. Based on the insufficient evidence before me, I must dismiss this claim.

Conclusion

The landlords' application is dismissed in its entirety.

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: May 03, 2017

Residential Tenancy Branch