



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, SS, FF

Introduction

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

- an Order of Possession for unpaid rent or utilities, pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- an order to be allowed to serve documents or evidence in a different way than required by the *Act*, pursuant to section 71; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The named "respondent," the "respondent's agent" and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The respondent's agent confirmed that he had permission to speak on behalf of the respondent at this hearing.

The hearing began at 9:30 a.m. with me, the respondent and the respondent's agent on the line. The landlord called in late at 9:33 a.m. but I could not hear him properly from his phone line. The landlord then exited the call and returned at 9:37 a.m. and I was able to hear him properly from a different phone line. The landlord said that he was late calling into the hearing because he had to find a new phone to use because his other phone was having connection issues. I informed the landlord about what had occurred in his absence before he called into the conference. The hearing concluded at 10:01 a.m., after 31 minutes total.

Preliminary Issue – Proper Parties to be Named

The respondent's agent stated that the proper tenant to be named in this application was his daughter "N," not his wife, the respondent named in this application. He said that N was the tenant, she signed the written tenancy agreement, she lived in the rental unit and she had already vacated the unit. The landlord agreed with the above information and confirmed that he did not require an order of possession. However, the landlord confirmed that the respondent was the person who filled out the application for tenancy, paid the rent on behalf of the tenant and communicated with the landlord. The respondent's agent confirmed that the respondent paid the security deposit and the rent on behalf of the tenant one time in order to assist her but she was not a tenant.

The landlord did not provide documentary evidence for this hearing, such as a written tenancy agreement, rent or security deposit cheques, the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities or other written information to confirm who the correct tenant is for this tenancy. Accordingly, I cannot confirm that the landlord has named the correct tenant in this application. During the hearing, both the landlord and respondent's agent confirmed that N was the tenant who signed the tenancy agreement and lived in this rental unit. However, N has not been named as a respondent tenant or been served with notice of this application.

As per section 6(1) of the *Act* (*my emphasis added*):

*The rights, obligations and prohibitions established under this Act are enforceable **between a landlord and tenant** under a tenancy agreement.*

I notified the landlord that the correct parties must be named and have notice of this hearing. I informed the landlord that he had to reapply if he wished to pursue this matter further. I notified him that he had to provide evidence of service of this application and any written evidence on the correct parties as per section 89 of the *Act*, and that written evidence to support his application was important in order to apply for a monetary order.

I advised both parties that I was dismissing the landlord's entire application with leave to reapply, except for the filing fee and the order of possession. I notified the landlord that he was not entitled to recover the \$100.00 filing fee paid for this application as he did not proceed with the hearing.

Conclusion

The landlord's application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application is dismissed with leave to reapply.

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 10, 2017

Residential Tenancy Branch