



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNDC MNSD FF

Introduction

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

- a monetary order for damage to the rental unit pursuant to section 67;
- a monetary order for unpaid rent pursuant to section 67;
- a monetary order 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;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 2:00 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on April 6, 2017, a copy of the Application for Dispute Resolution including the Notice of Hearing and Evidence on file was served to the tenant in person by a process server.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution pursuant to section 89 of the Act. The hearing proceeded in the absence of the tenant.

Issues

Do I have jurisdiction under the Act to make a decision on the application before me?

If yes, is the landlord entitled to a monetary award?

Background and Evidence

The tenancy started on December 1, 2016 and ended on April 27, 2016. The landlord's application was filed on April 4, 2017 and is requesting a monetary award for unpaid rent from April 2016 plus compensation for loss and damage arising out of the tenancy.

On June 12, 2017, the Residential Tenancy Branch received a letter dated June 8, 2017 from a Licensed Insolvency Trustee. The letter advises that on June 7, 2017, the tenant filed a Consumer Proposal under section 66.13 of the Bankruptcy and Insolvency Act. The letter attached a copy of the Official Receiver's Certificate of Appointment. A copy of this letter was also sent to the landlord as a known creditor along with a proof of claim.

Analysis

Section 69.2(1) of the Bankruptcy and Insolvency Act provides:

Stay of proceedings — consumer proposals

69.2 (1) Subject to subsections (2) to (4) and [sections 69.4](#) and [69.5](#), on the filing of a consumer proposal under [subsection 66.13\(2\)](#) or of an amendment to a consumer proposal under subsection 66.37(1) in respect of a consumer debtor, no creditor has any remedy against the debtor or the debtor's property, or shall commence or continue any action, execution or other proceedings, for the recovery of a claim provable in bankruptcy until

- (a) the consumer proposal or the amended consumer proposal, as the case may be, has been withdrawn, refused, annulled or deemed annulled; or
- (b) the administrator has been discharged.

The stay of proceedings applies to any creditor "for the recovery of a claim provable in bankruptcy". The landlord's application is for a monetary award arising prior to the tenant's filing of a Consumer Proposal and as such is subject to the stay of proceedings. I find I have no jurisdiction over this matter.

Conclusion

The landlord's application is dismissed with leave to re-apply. This does not extend any existing time limits that may apply.

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: August 29, 2017

Residential Tenancy Branch