



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPT, AAT, LAT, AS, RR, O, MT

Introduction:

A hearing was convened under the *Residential Tenancy Act* (the “Act”) to deal with the applicants’ application for monetary compensation for the cost of emergency repairs, an order of possession, an order that the landlord allow access to the rental unit, an order prohibiting the landlord from changing the locks, an order allowing the applicants to assign or sublet the rental unit, an order reducing the rent, and other unspecified relief.

Both of the landlords and one of the applicants, SP, attended the hearing. Both parties had a full opportunity to be heard, to present documentary evidence, to make submissions, and to respond to the submissions of the other party.

Service of the application and notice of hearing was not at issue.

SP testified that his first package of evidence had been included with his application, and that he sent the second package to the landlords by registered mail. The landlords stated that they had not received any of this evidence. I do not need to decide whether the landlords received the applicant’s evidence because it consisted solely of receipts in support of SP’s damages claim, and I have decided that he is not entitled to a monetary order.

The landlords testified that they sent their evidence by registered mail to the return address on the application and notice of hearing sent by the applicant. A registered mail receipt was provided in support. The applicant stated that he did not receive the landlords’ evidence. I find that the applicant received the landlords’ evidence five days after it was mailed, pursuant to s. 90 of the Act.

At the outset of the hearing the applicant withdrew the request for more time on the basis that it was not necessary because the applicants had not received a notice to end

tenancy. He also withdrew all other requests except for the claim for monetary compensation.

SP did not say that he was authorized to represent JW, and there was no documentary evidence to this effect.

Issues to be Decided

Are the applicants entitled to monetary compensation?

Background and Evidence

A copy of a tenancy agreement was in evidence. It records a tenancy between AA and the landlords beginning on January 1, 2017 and ending on June 30, 2017. Rent of \$1,900.00 was due on the first day of each month and the landlords collected a security deposit of \$950.00.

The tenancy agreement provides that there will be four adults residing in the rental unit, as follows: AA, RA, JW, and AE. SP is not listed as an occupant, and only AA is a signatory to the agreement. The tenancy agreement also provides that “[e]xcept for casual guests, no other persons shall occupy the premises without the written consent of the Landlord.”

The applicant who attended the hearing testified that he had been living in the rental unit since April of 2017, with JW and another man and that he was not aware that the unit was governed by a fixed term lease.

He said that he paid his rent to the named landlords in cash. Later he said he paid his rent to the named landlords by electronic transfer. The landlords suggested that this evidence was inconsistent but the applicant said that by “cash” he meant electronic transfer. The applicant did not include any evidence of his payment of rent by electronic transfer and the landlords denied having received any payments from him.

The applicant said that he answered a Craigslist advertisement in order to become a tenant and that JW and AA allowed him to move in but that all of them referred to RE and JE as the landlords, and that all of them were concerned about getting the security deposit back and the condition of the unit.

He also testified that when the landlord RE became aware that he was living in the rental unit, he attended to meet him, and take photographs of his identification, and stated that he wanted know who was living in his property. The applicant also stated that at one point RE gave him permission to grow a garden with a neighbour.

He also said that when he learned that AA was moving out, he asked the landlords for a rental application, but that they did not allow him to apply. The applicant further said at one point during the hearing that he knew the tenancy was ending because he showed the rental property to prospective renters.

SP submitted receipts for several nights in hotels, and for clothing, eyeglasses, gasoline, and various other things. He did not submit a monetary order worksheet or itemize his claims.

The landlords argued that SP was not a tenant. They stated that they never took rental money from him by any means (cash or electronic transfer or otherwise).

They further stated that this was a fixed term lease with AA, and that they phoned AA in April to remind him of this. They wrote AA a letter dated May 3, 2017, confirming that the lease would end on June 30, 2017. A copy of that letter was included in their evidence.

The landlords further testified that when they attended the rental property on July 1, 2017, several individuals were still inside the house and were "on drugs and alcohol." They said that SP was unconscious and unresponsive. As a result, they called the police, who were required to consider, first, who was on the lease and might therefore be authorized to be there and, second, how to deal with SP, in light of his condition.

The police arrested or apprehended SP for trespassing. The landlords agreed that they would bag SP's property (including a laptop, personal items, and medication) and transport the bags to the police station so that SP would not return to the rental property to retrieve them. Meanwhile, JW packed up his belongings and vacated the rental property.

The landlords also said that the rental property was badly damaged as a result of the most recent tenancy and that they had suffered losses of approximately \$10,000.00. They submitted photographs and receipts in support of these amounts, although they were not making an application against SP or JW for recovery of them.

Analysis

Sections 7 and 67 of the Act establish that a party who does not comply with the Act, Regulation or tenancy agreement must compensate the other party for damage or loss resulting from that failure to comply. The applicants claim for loss arising from the end of this tenancy, including accommodation costs.

The landlords submit that SP was not actually a tenant and does not therefore have standing to bring an application. I accept the landlords' submission and conclude that SP was not a tenant.

I did not find SP credible. I found his testimony that he paid the landlords in cash and his testimony that he paid by electronic transfer inconsistent. I also note that he did not provide any evidence in support of his claim that he paid the landlords rent directly. SP also contradicted himself by saying that he was not aware that the tenancy was for a fixed term and by saying that he showed the rental unit to prospective tenants and asked for an application for tenancy himself.

Accordingly, I prefer the landlords' evidence that they did not receive money from SP. It is also clear that SP did not contribute to the security deposit and did not enter into a written agreement with the landlord. I do not accept there was any oral agreement between the landlords and SP establishing a tenancy either. Based on all of this, I do not find that the relationship between SP and the landlords was a tenancy. It is for this reason that I conclude SP does not have standing to bring a claim against the landlords.

On the language of the tenancy agreement, JW was an authorized occupant. However, there is no evidence that SP was authorized to act on behalf of JW (or any of the others listed on the tenancy agreement). JW has not attended and his application is therefore dismissed without leave to reapply.

Lastly, I note that even if SP had standing or authority to represent JW, claims against the landlords have not been established by either applicant. The tenancy under which SP and JW occupied the rental property ended on June 30, 2017 and as a result there was no obligation on the part of the landlords to provide accommodation after that date.

I also accept the landlords' evidence that they delivered SP's possessions to the police and that JW took his own belongings with him when he left the property. The applicants therefore have no claim against the landlords for the replacement cost of allegedly lost

belongings. I also note that the applicants have not itemized their claims and have not, for instance, provided any information about their claims for such things as gasoline.

Conclusion

The application is dismissed without 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 Act. Pursuant to s. 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: September 19, 2017

Residential Tenancy Branch