



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR

Introduction

This hearing dealt with an Application for Dispute Resolution by Direct Request (the “Application”) that was adjourned to a participatory hearing. The Landlords filed under the *Residential Tenancy Act* (the “Act”), for a Monetary Order for unpaid rent and for an Order of Possession.

The hearing was convened by telephone conference call and was attended by the Landlords who both provided affirmed testimony. The Tenants did not attend. The Landlords were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing. As the Tenants did not attend the hearing, I confirmed service of these documents as explained below.

The Landlord testified that the Application and the Notice of Direct Request Proceeding, along with their evidence package, were sent individually to each the Tenants at the address for the rental unit on September 1, 2017, by registered mail. The Landlords also provided the registered mail tracking numbers for my consideration. As a result, I find that the Tenants were deemed served the Application, the Notice of Direct Request Proceeding, and the evidence package on September 6, 2017, five days after they were sent by registered mail.

The Landlord testified that the Notice of Hearing was sent to the Tenant C.G. by registered mail at the address for the rental unit on September 16, 2017, and provided the registered mail receipt in the documentary evidence before me. As a result, I find that the Tenant C.G was deemed served with the Notice of Hearing on

September 21, 2017, five days after it was sent by registered mail. The Landlord also testified that the Amendment to an Application for Dispute Resolution (the "Amendment") and the related evidence were personally served on the Tenant C.G. at their place of work on October 6, 2017. As a result, I find that the Tenant was served the Amendment on October 6, 2017.

The Landlord testified that the Notice of Hearing, the Amendment, and the evidence in relation to the Amendment, were personally served on the Tenant L.C. at their place of work on or about October 9, 2017. As a result, I find that the Tenant was served the Notice of Hearing, the Amendment, and the evidence in relation to the Amendment on or about October 9, 2017.

I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer only to the relevant facts and issues in this decision.

Preliminary Matters

An Amendment and a related utility bill were received by the Residential Tenancy Branch (the "Branch") on October 6, 2017. Rule 4.6 of the Rules of Procedure states that soon as possible, and not less than 14 days before the hearing, copies of the Amendment and supporting evidence must be produced and served upon each respondent by the applicant in a manner required by section 89 of the *Act*.

I have already found above that the Tenants were deemed served with the Amendment and related evidence in accordance with the *Act*. As the dates of deemed service were not less than 14 days before the hearing, the Application was amended accordingly.

In the hearing the Landlord also withdrew their Application for an Order of Possession as they stated that the Tenants moved out on or before October 6, 2017. The Application was amended accordingly.

Issue(s) to be Decided

Are the Landlords entitled to a Monetary Order for unpaid rent and utilities pursuant to section 67 of the *Act*?

Background and Evidence

The tenancy agreement in the documentary evidence before me indicates that on July 18, 2017, the parties entered into a three month fixed-term tenancy agreement with an end date of October 17, 2017. The tenancy agreement indicates that rent in the amount of \$3,500.00 is due on the 15th day of each month, and includes water, free laundry, garbage collection, parking for 2 vehicles, storage, and kitchen appliances. The tenancy agreement contains a move out clause, which is initialed by the parties, which stipulates that at the end of the fixed-term tenancy, the Tenants must move out of the residential unit. In the tenancy agreement it also states that a security deposit in the amount of \$1,750.00 and a pet damage deposit in the amount of \$500.00 are to be paid by the Tenants.

The Landlord testified that the Tenants moved out on or before October 6, 2017, without notice, and that as of the date of the hearing, they owe \$8,400.00 in outstanding rent.

The Landlord also submitted a utility bill in the name of one of the Tenants, in the amount of \$493.66. The Landlord stated that the Tenants never paid this bill and requested a Monetary Order to cover the cost of the bill.

Analysis

I accept the Landlord's undisputed testimony that as of the date of the hearing, the tenants owe rent in the amount of \$8,400.00. As a result, the Landlords are entitled to a Monetary Order in the amount of \$8,400.00.

Although the tenancy agreement indicates that the services covered by the utility bill submitted by the Landlord are not included in the rent, the tenancy agreement does not indicate that the Tenants are to pay the Landlord directly for these services, and the utility bill submitted by the Landlord is in the name one of the Tenants. Given that the utility bill is in the name of one of the Tenant's and there is no documentary evidence before me that the bill has either been transferred to the name of the Landlord or paid by the Landlord, I find that I cannot be satisfied that the amount shown on the bill is owed by the Tenant to the Landlord at this time. As a result, I find that the monetary claim for these amounts is premature and the Application for unpaid utilities is dismissed with leave to reapply.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlords a Monetary Order in the amount of \$8,400.00. The Landlords are provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The Landlords' Application for a Monetary Order for unpaid utilities 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: October 25, 2017

Residential Tenancy Branch