



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with cross applications. The tenants filed for a Monetary Order for return of the security deposit. The landlord filed for a Monetary Order for damage to the rental unit; damages or loss under the Act, regulations or tenancy agreement; and, authorization to retain the security deposit.

I noted that the tenants had named four co-tenants on their Application for Dispute Resolution and the landlord named five co-tenants on their Application for Dispute Resolution. The tenancy agreement indicates there were five co-tenants renting the rental unit. Accordingly, I was satisfied that naming five co-tenants on the landlord's Application for Dispute Resolution was appropriate. The five co-tenants are referred to by their initials in this decision.

At the outset of the hearing, I attempted to confirm service of hearing documents and evidence upon each other and the Residential Tenancy Branch. Hearing packages are to be served in accordance with sections 59 and 89 of the Act. Sections 59 and 89 require that an applicant serve each respondent with the hearing package, even if the respondents live at the same address and in a marital relationship. Evidence is to be served in a manner that complies with section 88 of the Act. Email is not a permissible method of service; however, section 71 of the Act permits me to deem a person sufficiently served even if they were not served in a manner that complies with the Act.

The tenants had served the landlord with their Application for Dispute Resolution by registered mail sent shortly after filing on June 1, 2017. I noted that the tenants did not indicate whether they had provided the landlord with a forwarding address in writing in their details of dispute and had not provided any documentary evidence to indicate they had. During the hearing co-tenant AB stated that he had sent a forwarding address to the landlord via regular mail well after the tenancy ended but he could not recall the date this was done. The landlord acknowledged that she received the forwarding address from the tenant in late June 2017. I informed that parties that the tenants appeared to have filed their Application for Dispute Resolution pre-maturely since a tenant must first provide a forwarding address to the landlord, in writing, before seeking return of the security deposit.

The landlord testified that three registered mail envelopes were sent to the five co-tenants on October 16, 2017 as follows: one package to tenants AB and SB; one package to tenants JS and MB; and, one package to co-tenant SA. JS and MB acknowledged receipt of the package sent to them. AB stated he did not receive the package sent to him and SB although he was aware of the landlord's claims since JS and MB shared the information with him. I was unable to confirm that SB was aware of the landlord's claims against her since she did not appear at the hearing. As for service upon SA the landlord provided a registered mail tracking number and a search of the tracking number revealed that SA did receive the registered mail on October 18, 2017.

As for service of the landlord's evidence, the landlord testified that evidence was sent to AB and SB by regular mail on October 25, 2017; by email to JS on October 25, 2017; and by personal delivery to SA's current roommate on October 26, 2017. AB testified that he did not receive the evidence from the landlord in the mail. JS acknowledged receiving multiple emails from the landlord and stated that he shared the content with the other co-tenants via social media, although there was no response from SA on the social media site.

The landlord also stated that she had attempted to increase the claim against the tenants. The landlord had not served the tenants with an Amendment to an Application for Dispute Resolution. Rather, the landlord explained that she merely attempted to amend the claim by including additional evidence. Amending an Application for Dispute Resolution requires the applicant to submit and serve an Amendment to an Application for Dispute Resolution to each tenant in a manner that complies with section 89 of the Act.

I expressed concern over the landlord's lack of proper service of the landlord's hearing packages and evidence upon all of the co-tenants in a manner that complies with the Act, as well as the pre-maturity of the tenant's Application for Dispute Resolution. I informed the parties that I was prepared to dismiss both Applications for Dispute Resolution with leave to reapply or facilitate a settlement discussion. The parties expressed an interest in exploring settlement discussions.

I proceeded to facilitate a settlement discussion between the parties. During the remainder of the hearing, the parties reached a full and final settlement agreement that I have recorded by way of this decision and the Monetary Order that accompanies it.

Issue(s) to be Decided

What are the terms of settlement?

Background and Evidence

The parties mutually agreed to the following term(s) in full and final satisfaction of any and all claims related to this tenancy:

1. The landlord shall pay to the tenants the sum of \$675.00 without further delay.

Analysis

Pursuant to section 63 of the Act, I have the authority to assist parties in reaching a settlement agreement during the hearing and to record the settlement agreement in the form of a decision or order.

I have accepted and recorded the settlement agreement reached by the parties during this hearing and I make the term(s) an Order to be binding upon all parties.

In recognition of the settlement agreement, I provide the tenants with a Monetary Order in the sum of \$675.00 to serve and enforce upon the landlord if necessary.

It is important to note that joint tenants are jointly and severally liable for any debts or benefits attributable to the tenancy. Accordingly, joint tenants are treated as a single entity and all five co-tenants are bound by the terms of settlement agreed to by the three co-tenants in attendance at the hearing. Further, the landlord is at liberty to satisfy the Monetary Order by paying one of the named co-tenants and it is upon the co-tenants to apportion the payment amongst themselves.

Conclusion

The parties reached a full and final settlement agreement during the hearing that I have recorded by way of this decision and the Monetary Order that accompanies it. In recognition of the settlement agreement, I provide the tenants with a Monetary Order in the sum of \$675.00 to serve and enforce upon the landlord if necessary.

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: November 09, 2017

Residential Tenancy Branch