



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SINGLA BROTHERS HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

This decision pertains to the Landlord's application for dispute resolution made on February 8, 2018, under the *Residential Tenancy Act* (the "Act"). The Landlord seeks the following relief:

- an order of possession for unpaid rent;
- a monetary order for money owed or compensation for damage or loss; and,
- a monetary order granting recovery of the filing fee.

The Landlord applied on February 8, 2018, by way of an *ex parte* Direct Request Proceeding. Upon review, the adjudicator noted that in order to proceed with a direct request, a residential tenancy agreement (the "Agreement") must be signed and dated by both the landlord and the tenant. The Agreement submitted by the Landlord referenced a second tenant "W.M." However, W.M.'s full name and signature do not appear on the agreement. The adjudicator was not satisfied that both tenants, as they appeared on the agreement, had been properly served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"). On February 8, 2018, the adjudicator adjourned the matter to a participatory hearing.

The Landlord attended the hearing before me and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The Tenant did not attend the hearing.

While I have reviewed all oral and documentary evidence submitted, only evidence pertaining to the issues of this application will be considered in my decision.

The Landlord testified that the Tenant was served with the 10 Day Notice on January 12, 2018, indicating an end tenancy date of January 22, 2018, by leaving a copy of the 10 Day Notice on the Tenant's door. Pursuant to section 90 of the Act, the 10 Day Notice is deemed to have been received on the third day after it is attached to the rental unit door.

On or after February 8, 2018, when the Residential Tenancy Branch issued the Interim Decision and Notice of Dispute Hearing, the Landlord testified that they served the Tenant in person, who answered the door and accepted the documents. While the Landlord was not entirely clear on the exact date that the Notice of Dispute Hearing and additional documents were served, they testified that "yes, I gave [the Tenant] the entire package" shortly after they received it from the Branch. The Landlord testified that the Tenant appeared "pleased" to have received the material, and commenting that they intended to file a dispute against the Landlord. There is no cross-application on file.

Regarding the person known as W.M., the Landlord testified that when the agreement was first filled out, the names of both the Tenant and W.M. were added. Only W.M.'s first name is written down on the agreement. The Tenant signed the agreement, but W.M. refused to sign. The Landlord submitted evidence (a copy of an e-mail dated May 23, 2017) asking the Tenant if they wanted to add W.M. to the agreement. Insofar as the individual W.M. is concerned, the Landlord acknowledged and confirmed that W.M. never became a tenant, and was simply an occupant who lived with the Tenant for most of the relevant period. The Landlord testified that W.M. has since moved out of the rental unit and that another occupant has moved in. The Landlord acknowledged that W.M. is not a party to this application. I am satisfied on the evidence provided that a tenancy agreement existed solely between the Landlord and the Tenant.

Given the above, I am find that pursuant to section 71 of the Act, that the package was sufficiently served for the purposes of the Act.

Issues

1. Is the Landlord entitled to an order of possession for unpaid rent?
2. Is the Landlord entitled to a monetary order for money owed or compensation for damage or loss?
3. Is the Landlord entitled to a monetary order granting recovery of the filing fee?

Background and Evidence

The Landlord testified that the agreement was signed by the Landlord and the Tenant on March 16, 2017, which indicated a monthly rent of \$1,600.00, due on the first day of each month for a tenancy commencing March 16, 2017. The Tenant paid a security deposit of \$800.00. A copy of the agreement was submitted into evidence.

The Landlord testified that the Tenant has not paid rent for the months of December 2017 to April 2018, inclusive. At the hearing, the Landlord requested that the amount owing be revised to \$8,000.00, to reflect rent owing having increased since the time the application was filed. In accordance with Rule 4.2 of the Residential Tenancy Branch's Rules of Procedure, I permitted this amendment. Finally, the Landlord testified that the Tenant currently resides in the rental unit.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent. Pursuant to section 46 of the Act, the Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days of service. The Notice also explains that the Tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

The Landlord testified, and provided documentary evidence to support their submission, that the Tenant did not pay rent when it was due, and has not paid any rent for the last five months. There is insufficient evidence that the Tenant applied to cancel the notice. Taking into consideration all of the evidence and unchallenged testimony presented before me, and applying the law to the facts, I find on a balance of probabilities that the Landlord has met the onus of proving their claim.

Pursuant to sections 46 and 55 of the Act, I grant an order of possession to the Landlord.

Pursuant to section 67 of the Act, I find that the Landlord is entitled to a monetary award for unpaid rent for the five month period of December 2017 to April 2018, inclusive. I order that the security deposit held be applied to the award granted to the Landlord.

And, having been successful in their claim, I find the Landlord is entitled to recover the \$100.00 filing fee. A total monetary award of \$7,300.00 is calculated as follows:

Claim	Amount
Unpaid rent	\$8,000.00
Filing fee	\$100.00
LESS security deposit	(\$800.00)
Total:	\$7,300.00

Conclusion

The Landlord is successful with their application and are hereby granted an order of possession for unpaid rent.

The Landlord is successful with their application and are hereby granted a monetary order for money owed, and for the filing fee, in the amount of \$7,300.00.

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: April 16, 2018

Residential Tenancy Branch