



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, FFT

Introduction

This decision is in respect of the tenants' application for dispute resolution under the *Residential Tenancy Act* (the "Act"). The tenants sought compensation under sections 38 (return of their security deposit), 67 (failure of landlord to fulfil purpose for which a Two Month Month Notice to End Tenancy for Landlord's Use), and 72 (recovery of the filing fee) of the Act.

A dispute resolution hearing was convened on February 8, 2019. The tenant (I.E.) and the landlord (A.R.) attended, were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The parties did not raise any issues in respect of the service of documents.

During discussions, the tenant explained that he did not serve the landlord (B.L.) with the Notice of Dispute Resolution Proceeding package. I explained that regardless of who the tenants' claims are against—the tenant's position was that his claim was against landlord (A.R.)—he was required to serve the Notice of Dispute Resolution on both landlords, and in the absence of such service, I would not have been in a position to hear his application against the landlords.

I note that *Residential Tenancy Guideline 12* ("*Service Provisions*") clearly states that "All parties named on an application for dispute resolution must be served notice of proceedings, including any supporting documents submitted with the application. Where more than one party is named on an application for dispute resolution, each party must be served separately."

Preliminary Issue: Jurisdiction of Claim

As noted in my previous decision of October 31, 2018, in respect of the landlord A.R.'s application, the tenants I.E. and V.D.-S. vacated the rental unit on May 2, 2018. Landlord A.R. took possession of the property on May 4, 2018. As such, any legal obligations between the tenants' landlord B.L. and the tenants remained soled with the landlord B.L. at the time the tenancy ended on May 2, 2018. In other words, the "new"

landlord A.R. was at no time a party to the tenancy agreement. Therefore, any claims made by the tenants in respect of their tenancy (and I note that only tenants I.E. and V.D.-S. were on a tenancy agreement, while the tenant A.I. is a tenant to a separate tenancy agreement, and is essentially a third party to this application) are solely against the landlord B.L.

While there appears to have been some transactions involving the payment of rent to a potential new landlord (A.R.) and the landlord transferring the security deposit to the potential new landlord, this does not change the fact that the parties to the tenancy between were, and remain, tenants I.E. and V.D.-S. and landlord B.L.

As I further explained, any claims that tenant A.I. may have against either landlord are subject to a separate application by that tenant against the landlords. Tenant A.I. was in a tenancy that appears to have continued, or transferred, from landlord B.L. to landlord A.R., though I make no findings of fact or law in this respect, having not heard from tenant A.I.

Having found that there was no tenancy between applicants I.E. and V.D.-S. and the respondent A.R. and having found that tenant A.I. is not a party to this application as his tenancy was a separate tenancy, I explained that the application could be dismissed or withdrawn. I should further note that, as the landlord B.L. was not served, I was in no position to proceed. And, as there is no tenancy between the parties I.E., V.D.-S., and A.R., I am also without jurisdiction to hear and consider that aspect of their application.

Conclusion

The tenants' application is withdrawn.

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.

Dated: February 8, 2019

Residential Tenancy Branch