Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   FFL MNRL-S OPR

Introduction

This hearing was convened by way of conference call concerning an application made by the landlords seeking an Order of Possession and a monetary order for unpaid rent or utilities; an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenants for the cost of the application.

Both landlords attended the hearing, one of whom gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants joined the call.

The landlord testified that the tenants were served with the Application for Dispute Resolution and notice of this hearing (the Hearing Package) by registered mail on April 2, 2019, and the landlords have provided 2 Registered Domestic Customer Receipts addressed to each of the tenants with a Canada Post date stamp bearing that date and I am satisfied that both tenants have been served in accordance with the *Residential Tenancy Act.*

Issue(s) to be Decided

- Have the landlords established that any of the notices to end the tenancy were given in accordance with the *Residential Tenancy Act*?
- Have the landlords established a monetary claim as against the tenants for unpaid rent?
- Should the landlords be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord testified that this fixed term tenancy began on February 7, 2009 and expired on January 31, 2010 thereafter reverting to a month-to-month tenancy and the tenants still reside in the rental unit. Rent in the amount of $500.00 per month is payable on the 1st day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of $250.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a single family dwelling, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord further testified that the tenants have failed to pay any rent for December, 2018 through May, 2019 and are currently in arrears of rent the sum of $3,000.00.

The landlords have provided copies of 3 individual 10 Day Notices to End Tenancy for Unpaid Rent or Utilities, and the landlord testified that they were all served to the tenants. They are all signed by a landlord, but none are dated and one has no effective date of vacancy. The first was issued for unpaid rent in the amount of $500.00 that was due on December 1, 2018. The second one shows that the tenants failed to pay rent in the amount of $500.00 that was due on January 1, 2019; and the third states that the tenants failed to pay rent in the amount of $500.00 that was due on February 1, 2019.

The tenants have not paid any rent, and arrears continue to accumulate.

The tenants have not served the landlords with an Application for Dispute Resolution disputing any of the notices.

Analysis

The *Residential Tenancy Act* specifies how a tenancy ends, and states that a notice to end a tenancy given by a landlord must be dated and signed by the landlord giving the notice. In this case, none of the notices are dated, and therefore I cannot grant an Order of Possession in favour of the landlords.

If rent remains unpaid, the landlords may serve another 10 Day Notice to End Tenancy for Unpaid Rent or Utilities for the full amount of rent that remains unpaid, but must sign and date the notice prior to serving it in order for it to be effective.

Conclusion

For the reasons set out above, the landlords' application is hereby dismissed.

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: May 16, 2019

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Residential Tenancy Branch