Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PRINCESS DAPHNE APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, OPC, MNRL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("*Act*") for:

- an order of possession for unpaid rent and for cause, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 20 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the property manager for the landlord company named in this application and that she had permission to speak on its behalf.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package on June 25, 2019, by way of registered mail. The landlord provided a Canada Post tracking number verbally during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on June 30, 2019, five days after its registered mailing.

I note that the landlord's evidence and application must be received by the tenant at least 14 days before this hearing, not including the service and hearing dates, as per Rule 3.14 of the RTB *Rules of Procedure*. In this case, the tenant was deemed served with the application on June 30, 2019, and the hearing date of July 11, 2019 is not a period of 14 days.

Preliminary Issue – Particulars of Landlord's Application

The landlord seeks an order of possession based on three 10 Day Notices to End Tenancy for Unpaid Rent or Utilities issued in April, May and June 2019 ("three 10 Day Notices") and a 1 Month Notice to End Tenancy for Cause, dated May 31, 2019 ("1 Month Notice").

The landlord explained that she issued the above notices to the tenant for unpaid rent. She maintained that the 1 Month Notice was issued because the tenant was repeatedly late paying rent.

The landlord claimed that the monthly rent amount was $707.00. When I asked how the rent was increased from the original tenancy agreement amount of $630.00 to $707.00, the landlord said that multiple notices of rent increase ("NRIs") were issued to the tenant. When I asked whether she supplied them for the hearing, she said that she did not, claiming that she had never been asked to do so by Arbitrators in previous hearings. When I asked her to verbally testify as to how and when the rent was increased, she did not know.

The landlord claimed that the rent was increased from $630.00 to $647.00 sometime in the first four years of the tenant's tenancy but the landlord was not working there at the time. She said that the previous property manager did not keep any records of the increase in rent and she did not know the details. She said that she only had NRIs from after the first four years of tenancy.

The landlord also seeks a monetary order of $1,222.00. She claimed that she was entitled to rent of $907.00 for May and June 2019, as well as to keep the tenant's security deposit of $315.00. When I asked why the landlord wanted to keep the deposit in addition to the unpaid rent, the landlord did not know.

Pursuant to section 59(2)(b) of the *Act*, an application must include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings. The purpose of the provision is to provide a tenant with enough information to know the landlord's case so that the tenant might defend herself.

I find that the landlord was unable to provide important details about rent for this hearing. I found her testimony to be unclear and confusing. I provided the landlord with ample time during this hearing in order to sort through her paperwork in order to clarify her claim and provide me with clear testimony, but she failed to do so.

The landlord failed to provide documentary evidence about the rent, including NRIs, or details of how the rent was increased, in order for me to determine the details on the three 10 Day Notices, the 1 Month Notice, and the monetary order for unpaid rent. Without this information, I cannot determine whether the tenant owed rent, whether the tenant paid the proper amount of rent, and whether the notices were cancelled by the payment of rent.

I also asked the landlord to confirm the spelling of her surname during the hearing, as she spelled it incorrectly on her application. She indicated it was not a "big deal" because it was "only one letter." When I asked the landlord how to spell the tenant's first name, because it was indicated differently in the landlord's application and the landlord's notices to end tenancy, the landlord said that she did not know and that it did not matter. When I notified her that spelling had to be correct for any orders to be enforceable against the tenant, the landlord claimed that it did not matter.

For the above reasons and given that the landlord was unable to properly proceed with this hearing, I exercise my discretion to dismiss the landlord's application to recover the $100.00 filing fee, without leave to reapply.

The remainder of the landlord's application 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: July 11, 2019

Residential Tenancy Branch