



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes MNRL-S, FFL

Introduction

This matter proceeded by way of an *ex parte* Proceeding, pursuant to section 76(1)(a) of the *Act* and Rules 5.3 and 5.4 of the RTB *Rules*. On October 25, 2019, the RTB received a request, dated October 24, 2019, from the tenants' advocates on behalf of the tenants. The tenants' advocates produced authorization letters from both tenants, allowing them to represent the tenants in this application, regarding this tenancy and rental unit.

The tenants request that the landlords be summoned to produce all tenancy agreements under which the rental unit was rented in the year 2019, for the upcoming hearing on November 14, 2019. They provided a two-page letter stating that these documents related to the landlords' claim for rental loss and that the tenants had no other way to obtain this evidence. They explained that the landlords should include this evidence with their application.

Issue to be Decided

Should the landlords be summoned to produce tenancy agreements?

Analysis

The hearing scheduled for November 14, 2019 deals with the landlords' application against the tenants for a monetary order for unpaid rent, to retain the tenants' security deposit, and to recover the \$100.00 application filing fee.

Section 67 of the *Act* requires the applicants to prove a monetary claim on a balance of probabilities. In proving this claim, the applicants can rely on testimonial and/or documentary evidence. In this case, the landlords are the applicants that have the burden of proof, on a balance of probabilities, to prove their claim.

The landlords may or may not have tenancy agreements for the year 2019. The tenants did not indicate whether they asked the landlords if they had these documents and if so, what efforts were made by the tenants to obtain these documents from the landlords.

I do not find it appropriate to require the landlords to produce documents which they may not have. Further, the tenants cannot dictate which documents the landlords should include as part of their application and evidence. It is up to the landlords to prove their claim on a balance of probabilities, whether by testimony and/or documents.

Accordingly, the tenants' request for the landlords to produce tenancy agreements is denied.

Conclusion

The tenants' request for the landlords to produce tenancy agreements is denied.

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: October 29, 2019

Residential Tenancy Branch