

DECISION

Introduction

The Landlord in this matter has filed two applications seeking relief under the *Residential Tenancy Act*.

The first application names G.N. as a respondent and seeks the following relief under the *Act*:

- a monetary order pursuant to s. 67 for unpaid rent;
- a monetary order pursuant to s. 67 for compensation for damage to the rental unit caused by the tenant, their pets, or guests;
- a monetary order pursuant to s. 67 for compensation or other money owed; and
- return of the filing fee pursuant to s. 72.

The second application names L.B. as a respondent and seeks the following relief under the *Act*:

- a monetary order pursuant to s. 67 for unpaid rent;
- a monetary order pursuant to s. 67 for compensation or other money owed; and
- return of the filing fee pursuant to s. 72.

G.A. attended as the applicant Landlord. L.B. attended as the respondent Tenant. G.N. did not attend the hearing.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

Dismissal of the Landlord's Applications

As noted above, both applications list separate respondents. The Landlord provided written submissions to the effect that she had an agreement with L.B. that he could occupy the rental unit, but that he moved out and permitted G.N. to move into the rental unit without her authorization.

At the hearing, the parties advise that there was no written tenancy agreement. The Tenant testified that he moved into the rental unit on July 1, 2024. The Tenant indicates that rent of \$1,800.00 was to be paid on the first day of each month.

The Tenant says that he had a month-to-month tenancy and found the rental unit unsuitable to him, so he moved out in late July 2024 and paid the Landlord \$1,800.00 for August's rent. The Tenant tells me that his friend, G.N., was without a place to live for August 2024 so he gave him the keys to the rental unit since he had paid rent for the month.

The Landlord testified that she never agreed to G.N. moving into the rental unit and that she tried to come to an agreement for him to occupy the place, but that no agreement was made. The Landlord's evidence contains messages between her and G.N. in late August 2024 in which overtures were made by her to set terms to a tenancy agreement, though G.N. eventually says he wanted to move out. The Landlord's application against G.N. indicates he moved out on August 30, 2024.

As a general proposition, claims between parties before the Residential Tenancy Branch are limited to those between landlords and tenants to the same tenancy agreement. Individuals who occupy a rental unit, but are not party to the agreement, are third parties to the tenancy agreement and the responsibility for their actions rests with the tenant who agreed to pay rent to the landlord.

In this instance, I find that there was an oral tenancy agreement between the Landlord and the Tenant in which occupancy was given to the Tenant in exchange for rent of \$1,800.00 being paid on the first day of each month. I accept the term of the tenancy was on a month-to-month basis.

Because of this, I find that G.N. was not permitted to occupy the rental unit as the Landlord did not give the Tenant authorization to provide the keys to G.N. after the Tenant vacated the rental unit in late July 2024. The Tenant could not unilaterally give occupancy to a third-party, nor could he impose a de facto assignment of the tenancy agreement to G.N. without the Landlord's consent.

In all circumstances, I find that the Tenant is the one who would ultimately bear responsibility for occupancy during the tenancy, such that the claims advanced against G.N. are improper. The Landlord cannot seek compensation from someone who is a third-party to the tenancy agreement.

Given the above, I find that the application against G.N. should be dismissed in its entirety, without leave to reapply. G.N. is not a tenant and the Landlord cannot seek compensation from him absent an agreement that he was permitted to occupy the rental unit.

The two applications raise a procedural fairness problem, namely that the Tenant has not received notice to the claims advanced by the Landlord against G.N. since he is not

named as a respondent on that application. Without speaking to the merits of the claims against G.N., if someone is responsible for those claims, it is the Tenant as he was the only individual who had an agreement with the Landlord for occupancy of the rental unit.

A core component of maintaining a procedurally fair process is that a respondent has notice of the claims levelled against them by an applicant. I find that that cannot be achieved here due to the way the Landlord has split her claims between two applications against separate respondents.

Finally, the Landlord is not permitted to divide her claims given the application of Rule 2.9 of the Rules of Procedure, which means that the Landlord cannot proceed on her application against the Tenant and later file for additional amounts due to claims she advanced against G.N..

Considering the issues, I also dismiss the Landlord's substantive claims against the Tenant, with leave to reapply. I grant this dismissal as it will permit the Landlord to consolidate her claims in a single application against the respondent Tenant, such that he has notice of what the Landlord is seeking. The dismissal and refiling will ensure the claims are determined on their merits in an orderly fashion.

With respect to the filing fees for both applications, I find that the procedural issues that have arisen here are largely the result of the Landlord's failure to name the correct respondent for her claims. Accordingly, I find that the Landlord is not entitled to the filing fee for either application, such that both claims under s. 72(1) of the *Act* for the filing fees are dismissed without leave to reapply.

This dismissal does not extend any time limitation that may apply under the *Act*.

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: November 28, 2024

Residential Tenancy Branch