

DECISION

Dispute Codes: MND, MNSD and FF

Introduction

These applications were brought by both the landlord and the tenants.

By application of December 16, 2009, the landlord sought an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served on December 3, 2009. The landlord also sought a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

The landlord's application was originally treated as a Direct Request proceeding on the written record only on December 30, 2009. However, it was adjourned to the present telephone conference call hearing as the Dispute Resolution Officer was unable to ascertain the amount of rent owing from the documents submitted. The decision noted the inconsistencies in the application.

By application of January 18, 2010, the tenants seek to dispute an additional rent increase.

As a matter of note, the parties participated in a hearing on April 8, 2009 during which the Dispute Resolution Officer expressed concern over the tenant's ability to represent herself fully.

She adjourned the hearing with the recommendation that the tenants attempt to engage an advocate to assist them. When the hearing reconvened on May 8, 2009, the tenants did not appear. The landlord withdrew a request for an Order of Possession and was awarded a Monetary Order for \$592 and authorization to retain the security deposit with interest.

Background and Evidence

This tenancy began in 1990. The parties are unable to agree on how much the rent should be. The tenant gave evidence that the rent is \$350 per month. The landlord stated that rent is \$535 per month and he had reached some sort of agreement with social services to that effect.

However, the latest documentary evidence of the rent is a rental agreement, signed by the parties on March 4, 2009, indicating that the rent is \$450 per month and, in the absence of any superseding evidence to the contrary, I find that the rent is \$450 per month.

I note also that the landlord's application states that the "Bailiff supervised eviction due to unpaid rent...tenant must pay for proceedings." In fact, the parties concurred that the tenants continue to live in the rental unit, although they identify it as two different street names.....one, a lane on abutting the property, and the other, the actual street address.

Analysis

As the landlord's application appears to be based on the assumption that the rent is \$535 which disagrees with the rental agreement's rate of \$450, I cannot uphold the Notice to end Tenancy or consider an Order of Possession.

As to the requested Monetary Order, I note that the Notice to End Tenancy claims \$300 in unpaid rent, and the application made within the same month claims \$592, which coincides with the amount awarded in the previous hearing.

As the Decision of December 30, 2009 noted that the matter had to be adjourned due to a need for clarity over the landlord's monetary claim, I find that the landlord was given adequate notice of the need to submit further evidence to verify and corroborate the amount of the rent.

As to the tenant's request that an additional rent increase be set aside, I have no evidence that an additional rent increase has been authorized and that matter is moot.

Conclusion

Both applications are dismissed without leave to reapply. If the landlord believes that future rent is short of the full amount owed, he is at liberty to serve a further notice to end the tenancy and make application on that notice. I repeat the advice given in the interim decision of April 8, 2009 that the tenants seek the assistance of an advocate should further disputes arise with respect to the tenancy.

February 5, 2009