



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application for dispute resolution under the Residential Tenancy Act (the “Act”) by the landlord for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenant’s security deposit and to recover the filing fee.

The landlord’s agent appeared, gave affirmed testimony and was provided the opportunity to present her evidence orally and in documentary form, and make submissions to me.

The landlord testified that she delivered the Application and Notice of Hearing documents (the “Hearing Package”) the tenants by registered mail on June 22, 2012; however the landlord placed the Hearing Package in the same envelope. The tenants did not appear for the conference call hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

Preliminary Matter-The landlord stated that the tenants appeared to have abandoned the rental unit and no longer needed an order of possession for the rental unit. I have therefore excluded her request for an order of possession.

Issue(s) to be Decided

Is the landlord entitled to a monetary order and to recover the filing fee?

Background and Evidence

This one year, fixed term began on September 1, 2011, monthly rent is \$835.00, and a security deposit of \$417.50.00 was paid by the tenants at the beginning of the tenancy.

The landlord gave affirmed testimony and supplied evidence that on June 4, 2012, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting on the door, listing unpaid rent of \$835.00 as of June 1, 2012. The effective vacancy date listed on the Notice was June 17, 2012.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to dispute the Notice.

I have no evidence before me that the tenants applied to dispute the Notice.

The landlord stated that the tenants failed to pay rent for June and July and vacated the rental unit without notice.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Section 89 (1) (a) and (c) of the *Act* states that service of a copy of the application for dispute resolution **must** be delivered to the tenant by leaving a copy with the person or by registered mail. In other words, the Act and principles of natural justice require that each tenant be served individually, in separate envelopes, in order to be informed of the nature of the claim made against them. In this case, the landlord placed the application for dispute resolution in the same envelope to the three tenants.

Without confirmation of being served, the tenants/respondents would easily have any Decision or Order made against them overturned upon Review.

Therefore, I find the landlord failed to establish that the tenants have been served with the Notice of Hearing and Application for Dispute Resolution under Section 89 (1) (a) and (c) necessary for a monetary order. I **dismiss** the landlord's Application for a monetary order for unpaid rent, **with leave to reapply**.

I find the landlord's application had merit and I allow them recovery of the filing fee of \$50.00. The landlord is authorized to deduct \$50.00 from the tenants' security deposit in satisfaction of the monetary claim.

Conclusion

The portion of the landlord's Application for a Monetary Order is dismissed with leave to re-apply.

The landlord may withhold \$50.00 from the tenants' security deposit for recovery of the filing fee.

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 13, 2012.

Residential Tenancy Branch