Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT
MNRL-S, FFL

Introduction

This hearing was convened by way of conference call concerning applications made by the tenant and by the landlords which have been joined to be heard together.

The tenant's application seeks a monetary order for return of all or part of the security deposit or pet damage deposit and a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act,* regulation or tenancy agreement.

The landlords' application seeks a monetary order for unpaid rent or utilities; an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The tenant and both landlords attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other.

The tenant advised that all evidence has been exchanged, but one of the landlords indicated that the tenant provided a batch of evidence in July by email, which was not agreed to, and another batch 2 weeks and 5 days ago, but the 2nd batch was not provided to both landlords.

Also, during the course of the hearing, I learned that the landlords had not served any documentation or evidence upon the other tenant, who is named as a tenant in the tenancy agreement. The landlord testified that the landlords' application was in response to the tenant's application, and only 1 tenant had applied.

I reserved my Decision with respect to service and delivery of documents, and the hearing proceeded, with affirmed testimony by all parties who appeared.

Analysis on Service and Delivery of Documents

I disagree that the landlords' application is in response to the tenant's application, but is a totally different claim than the tenant's. The tenancy agreement names 2 tenants, and the landlord is obligated to serve both tenants. Similarly, the tenant is obligated to provide evidence to both landlords named in the tenant's application.

I also refer to Residential Tenancy Policy Guideline 12 – Service Provisions, which states, in part (underlining added):

> At any time, a tenant or landlord may provide an email address for service purposes. By providing an email address, the person agrees that important documents pertaining to their tenancy may be served on them by email. A person who does not regularly check their email should not provide an email address to the other party for service purposes.
>
> A tenant or landlord must provide to the other party, in writing, the email address to be used. There is no prescribed form for doing so, but parties may want to use RTB-51 - "Address for Service" form and provide it to the other party.
>
> If there has been a history of communication between parties by email, but a party has not specifically provided an email address for service purposes, it is not advisable to use email as a service method. If no other method of service is successful, a party may apply for a substituted service order (RTB-13 - Application for Substituted Service), asking for an order allowing service by email, and provide evidence of a history of communication between the parties at that email address. Parties may face delays or risk their application being dismissed if service is not effected in accordance with the legislation.
>
> If an email address given for the purposes of serving documents changes at any time, the onus is on the party to ensure an updated address is provided to the other party, or that the other party is advised that it is no longer acceptable to serve documents at the email address provided. If such notice is received, email service is no longer a method of service available to serve documents and another method of service set out in the legislation must be used instead.

> The Regulation to the *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act* prescribes service to an email address provided for service as an acceptable method of serving documents. Documents may be served by sending a copy of the document to the email address provided as an address for service by the person to be served. If no email address for service has been provided, then this method of service should not be used. Parties may face delays or risk their application being dismissed if service is not effected in accordance with the legislation.

In this case, I find that neither party has provided an email address to the other for the purpose of serving documents, and neither party has satisfied the requirement of serving all documents to both applicants/respondents.

Therefore, I dismiss both applications with leave to reapply.

Conclusion

For the reasons set out above, the applications of the tenant and of the landlords are hereby 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: January 31, 2022

Residential Tenancy Branch