

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNDC, MNSD, FF

Introduction

This hearing dealt with an application by A.L. for the return of double her security deposit. Both parties participated in the conference call hearing and had opportunity to be heard.

Issue(s) to be Decided

Does this living situation fall under the jurisdiction of the Act?

Background and Evidence

The respondent to this action is one of three roommates renting a unit under a single tenancy agreement. One of the three original roommates, K., vacated the unit on May 2, 1008. The applicant took K.'s place and paid to K. \$240.00, which represented K.'s portion of the security deposit paid to the landlord. During the tenancy, the applicant paid her rent to the respondent as did the other roommate and the respondent would submit one cheque to the landlord. The respondent testified that he was the one who paid the rent because he had a chequebook. The parties agreed that the written tenancy agreement with the landlord was not amended to reflect the departure of K. and arrival of the applicant.

The applicant vacated the rental unit on October 31, 2008 and on November 4 sent a registered letter to the respondent in which she provided her forwarding address and requested the return of her security deposit. The respondent sent her a letter advising of debts he felt the applicant owed and advising that beyond the amount of the security deposit, she owed the remaining roommates an additional \$257.50.

Analysis

The Residential Tenancy Act governs the relationship between landlords and tenants. In order to be successful in her application, the applicant must prove that the respondent is her landlord. I find that she has not so proven. The applicant did not pay a security deposit to the respondent but rather to K., whose place she was taking. A tenancy agreement was not signed with the respondent and the practice of pooling resources to pay rent continued with the applicant making a contribution in place of K. It is clear to me that the parties were roommates and were not in a landlord-tenant relationship. The fact that the respondent did not wish to return the applicant's portion of the security deposit and purported to make deductions therefrom does not persuade me that he was acting as a landlord. Rather, he was trying to recoup monies he felt were owed to him and as he anticipated the landlord returning the security deposit when his tenancy ended, felt that making deductions from the security deposit was the surest way of realizing payment.

I find that the Residential Tenancy Act does not apply to this relationship and dismiss the application.

Conclusion

The tenant's application is dismissed for want of jurisdiction.

Dated May 08, 2009.