



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, O

Introduction

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

First of all I would like to state that the parties (including D.H.) agreed at the hearing that any order issued would be issued against D.H. the present landlord, and not D.I. Holdings Ltd.

Background and Evidence

The applicants testified that:

- This tenancy is ending at the end of October 2010.
- However the new landlord has already taken some of the space that was rented by the applicant and allowed other people to move into that rental space.
- The applicant therefore does not have the full use of the rental space she previously had.

The applicant is therefore requesting that the landlord be ordered to remove the new tenants from the applicant's rental space and return that rental space to the applicant.

The new owner of the property testified that:

- He thought he had the right to rent out the rooms he is renting, as he did not believe that they were part of the applicant's rental unit.
- He looked at the tenancy agreement that was originally signed and from what he could tell the areas he has rented out were not included in that tenancy agreement.
- Three of the rooms were rooms that the applicant had been subletting however originally they were only to be sublet to family members, and since that was no longer the case he also believed the applicant no longer had the right to sublet those rooms.

The previous owners of the property testified that:

- The applicant had been allowed to use the areas of the rental unit that the new owner is now renting to others.
- They had allowed her use all these areas without any restrictions, and had even allowed her to sublet to non-family members.

Analysis

It is my finding that the new owner did not have the right to rent out the portions of the rental unit that had been previously used by the applicant, and he should have waited until the tenancy ended at the end of October before doing so.

That being said I am not willing to order that the landlord evict the new tenant's, as it would not be fair to the new tenants who have no fault in this matter, especially since this tenancy is ending at the end of October 2010 anyway.



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

It is my decision that the tenant shall instead, be compensated for loss of use in the amount of \$585.00.

I further order that the respondent bear the \$50.00 cost of the filing fee that was paid for the application for dispute resolution.

Conclusion

I have issued an order for the new landlord to pay a total of \$635.00 to the applicant.

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: September 23, 2010.

Dispute Resolution Officer