

## **DECISION**

Dispute Codes      MNDC, MNSD, FF

### Introduction

This hearing dealt with the applicant's request pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38; and
- authorization to recover her filing fee for this application from the landlord pursuant to section 72.

The owner of the property (the landlord as noted above) and the applicant attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The applicant testified that she sent the owner and her former roommate, the owner's tenant, whom she identified as a landlord on her application, a copy of her May 25, 2010 application for dispute resolution by registered mail in September 2010. The owner confirmed that he received a copy of her application for dispute resolution by registered mail on September 24, 2010. Despite the lateness of the applicant's provision of her application to the owner, the owner said that he was prepared to proceed with a hearing of this application.

The applicant was seeking a monetary order of \$20,250.00 against both the landlord and her former roommate, whom she also identified as her landlord in her application. Most of this amount was for lost furniture and possessions that she claimed were placed outside the building or stored by her former roommate, the tenant. In addition, she asked for return of that portion of the August 2010 rent that she paid for this tenancy. She also asked for return of the security deposit for this tenancy, a security deposit apparently paid by her former roommate before she moved to this property.

### Issues(s) to be Decided

Was the applicant part of a landlord/tenant relationship under the meaning of the *Residential Tenancy Act*? Is the applicant entitled to a monetary Order? Is the applicant entitled to return of a portion of the security deposit for this tenancy? Is the applicant entitled to recovery of her filing fee for this application?

#### Background and Evidence - Status of the Applicant

Neither of the parties attending the hearing knew where the applicant's roommate presently resided. The applicant said that she moved into the rental premises to share the rent with the applicant's roommate, identified as one of her landlords in her application, on June 4, 2010. The owner testified that he knew that his tenant occasionally had others living with him. However, the owner said that his tenancy agreement was with the applicant's roommate and not the applicant.

The applicant testified that she had nothing in writing by way of a tenancy agreement or rent receipts to prove that she was a tenant in this property. She said that she gave her roommate half of the rent after she moved into these premises with her belongings in June 2010. She and her roommate were involved in an incident on July 21, 2010, in which a restraining order was apparently issued against her roommate, the owner's tenant. The owner testified that he spoke with the applicant's roommate on July 21, 2010 at which time he agreed to the owner's proposal to change the locks. Although the applicant had moved some of her belongings into the rental premises, the owner provided evidence that she had no residential tenancy agreement with him allowing her to stay in the rental premises. The applicant was removed from the property on August 10, 2010. The owner maintained that this is a dispute between the applicant who was not entered on the residential tenancy agreement and the applicant's roommate. The owner testified that his tenant vacated the premises by mid-September. The applicant's roommate apparently removed some of her belongings when he vacated the premises and stored them elsewhere.

Analysis - Status of the Applicant

Based on the evidence presented, I find that the applicant has not demonstrated that her arrangement with her former roommate established him as her landlord. She provided insufficient evidence to demonstrate that she was his tenant or to enable her recourse against her former roommate through the *Residential Tenancy Act*. I find that the applicant has provided insufficient evidence to demonstrate that she had any form of contractual arrangement with the landlord that falls within the *Residential Tenancy Act*. I disagree with the applicant's assertion that a tenancy relationship with the owner of this property was established when she handed the owner the rent payment one month when his tenant was unavailable.

I dismiss the applicant's application for a monetary Order against either of the individuals she identified as landlords in her application for dispute resolution. I dismiss the applicant's request for return of the security deposit paid for this tenancy as there is no evidence that she has any recourse to that security deposit. Since this application was not successful, the applicant is not entitled to recovery of her filing fees from either of those she identified as landlords on her application.

Conclusion

I dismiss this application for a monetary Order. I dismiss this application for return of the tenant's security deposit. I make no order regarding the applicant's 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*.