



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application for a monetary Order for return of the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent on June 17, 2010, to the landlord via registered mail at the address noted on the Application. A Canada Post tracking number and receipt was provided as evidence of service to the address where the tenant had lived with the landlord.

These documents are deemed to have been served in accordance with section 89 of the Act; however the landlord did not appear at the hearing.

Preliminary Matters

The tenant served the landlord with Notice of this hearing to the address where had resided with the landlord. The landlord and tenant shared bathroom and kitchen facilities. The tenant could not provide evidence of the landlord's status; whether she was the owner of the property, a tenant of another landlord or if she was acting as agent for the landlord.

As the tenant could not provide any evidence of the status of his "landlord" I determined that there was insufficient evidence before me to establish jurisdiction. I would consider 3 possible scenarios in relation to jurisdiction:

- If the "landlord" was renting another room in the rental unit and acting as agent for the actual landlord, then jurisdiction may be found;
- If the "landlord" was simply renting the complete unit from a landlord and then supplementing her income by renting a room, I would find that the tenant was actually an occupant with no rights or obligations under the Act; or

- If the “landlord” owned the rental unit, in which case I would find that the tenant was an occupant.

Issue(s) to be Decided

Is the tenant entitled to return of the deposit paid?

Is the tenant entitled to filing fee costs?

Background and Evidence

I did not consider any testimony beyond that related to jurisdiction.

Analysis

The tenant may consider the preliminary matters I have recorded and determine if he wishes to pursue another Application. The matter of jurisdiction will be decided during any future hearing on the basis of the information before the dispute resolution officer at that time, who will not be bound by my reasoning given in the preliminary matters section of this decision.

Conclusion

As I am unable to determine jurisdiction this Application is 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: November 02, 2010.

Dispute Resolution Officer