

Decision

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenant for the return of her full security deposit, in addition to recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenant is entitled to either or both of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on December 17, 2008. The unit is identified on the tenancy agreement as the “upper unit.” The tenant rented one room in the upper unit and shared bathroom and kitchen facilities with the landlord, who is also a part owner of the property. Monthly rent was \$400.00, and a security deposit of \$200.00 was collected at the outset of tenancy. A move-in condition inspection and report were not completed.

By letter dated May 30, 2010, the tenant gave notice to the landlord of her intent to end the tenancy effective July 1, 2010. In her letter the tenant also informed the landlord of her forwarding address. Ultimately, the tenant vacated the unit on or around June 29, 2010. A move-out condition inspection and report were not completed.

Following an inspection of the unit by the landlord, it was determined that certain cleaning was required. In the result, the landlord made a deduction from the tenant’s security deposit of \$175.00, and returned the balance to the tenant in the amount of \$25.00.

The tenant does not dispute the claim by the landlord's agent, which is that the landlord (who, as earlier noted, is an owner) also lived in the upper unit and the two shared bathroom and kitchen facilities.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Section 4 of the Act speaks to **What this Act does not apply to**, and provides in part as follows:

4 This Act does not apply to

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,...

Based on the documentary evidence and testimony of the parties, I find that the landlord is also an owner of the subject unit. I further find that the tenant and the landlord / owner shared the bathroom and kitchen facilities in the unit. Accordingly, pursuant to the above legislation, I find that the Act does not apply to the circumstances of this dispute.

Conclusion

In the absence of statutory jurisdiction, the application is hereby dismissed.

DATE: December 9, 2010

Dispute Resolution Officer