



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes:

CNR, OPR, OPC, MNR, MNSD, MND, MNDC, FF

Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, an Order of Possession for Cause; a monetary Order for unpaid rent, a monetary Order for damage to the rental unit; a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the filing fee from the Tenants for the cost of this Application for Dispute Resolution.

The Respondent with the initials "C.L." filed an Application for Dispute Resolution, in which the Respondent applied to set aside a Notice to End Tenancy for Unpaid Rent.

The Landlord and the Respondent with the initials "D.V." attended the hearing at the scheduled start time, which was 10:30 a.m. on January 14, 2011. This Respondent stated that she is not acting as an agent for the other Respondent in respect to the other Respondent's Application for Dispute Resolution.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Respondent with the initials "C.L." via registered mail at the rental unit on December 23, 2010. The Landlord submitted Canada Post documentation that corroborates this statement. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, and the hearing therefore commenced at the scheduled time in the absence of the Respondent with the initials "C.L.".

The Respondent with the initials "C.L." attended the hearing thirty-one minutes after the start of the hearing. She was advised that her late attendance was a significant disruption to the proceedings as I would now have to summarize the proceedings to date, at which point she exited from the teleconference without notice. She had not rejoined the teleconference by the time the teleconference was concluded at 11:24 a.m.

The parties in attendance at the hearing were provided with the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Background and Evidence

The Landlord stated that she entered into a tenancy agreement with a male who is not named in this Application for Dispute Resolution that began on June 01, 2010, which required the male to pay monthly rent of \$850.00. She stated that she and that male mutually agreed to end that tenancy sometime in late September or early October.

She stated that sometime in September of 2010 she learned that the Respondents were occupying the rental unit; she stated that the occupants filled out an application to rent the rental unit sometime near the end of September; that she did not subsequently enter into a verbal or written tenancy agreement with the Respondent's as she was not satisfied with the references they had provided; that she advised them they could remain in the rental unit while she was checking their references but that she would not enter into a tenancy agreement with them without suitable references; that they paid \$850.00 in rent for October of 2010; that she provided them with a rent receipt for October that clearly indicated rent was being accepted for use and occupancy only, as she did not know if she was going to enter into a tenancy agreement with them; that they paid \$850.00 in rent for November of 2010; that she provided them with a rent receipt for November that clearly indicated rent was being accepted for use and occupancy only, as she did not know if she was going to enter into a tenancy agreement with them; and that she has never entered into a verbal or a written tenancy agreement with these Respondents.

The Respondent stated that she is good friends with the male that moved into this rental unit in June of 2010; that the male allowed her and the other Respondent to move into the rental unit in September of 2010; that they paid \$850.00 in rent to that male in September of 2010; that they paid \$850.00 in rent for October of 2010 to the Landlord; that the Landlord provided them with a rent receipt for October although she does not recall if it stated that the rent was being accepted for use and occupancy only; that they paid \$850.00 in rent for November of 2010 to the Landlord; that the Landlord provided them with a rent receipt for November although she does not recall if it stated that the rent was being accepted for use and occupancy only; and that they have never entered into a verbal or a written tenancy agreement with the Landlord.

Preliminary Issue

Before proceeding to examine and consider the merits of the Landlord's Application for Dispute Resolution I must determine whether this application has jurisdiction under the *Act*. The legislation does not confer authority to consider disputes between all types of relationships between parties. Only relationships between landlords and tenants can be determined under the *Act*. Section 2 of the *Act* specifies that despite any other enactment subject to section 4, this *Act* applies to tenancy agreements, rental units, and other residential property.

As both parties clearly expressed their understanding that they did not enter into a tenancy agreement, either written or verbal, I find that a tenancy agreement does not exist. I cannot determine that a tenancy exists when both parties clearly express their belief that one did not exist.

As the parties agree that they did not have a tenancy agreement, I find that I do not have jurisdiction to determine this matter.

Conclusion

As the *Act* does not apply to these parties, I find that I do not have jurisdiction in this matter and I dismiss the Application for Dispute Resolution.

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: January 14, 2011.

Residential Tenancy Branch