



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

O

Introduction

This hearing was convened in response to Application for Dispute Resolution, in which the Applicant has made application for the dispute code "Other".

The Agent for the Applicant stated that she personally served the Respondent with copies of the Application for Dispute Resolution and Notice of Hearing on June 09, 2011. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Respondent did not appear at the hearing.

Issue(s) to be Decided

The issue to be decided is whether the Applicant and the Respondent have a tenancy agreement that is subject to the provisions of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Agent for the Applicant stated that the Tenant moved into this rental unit on October 01, 2010; that when he moved in he was paying \$240.00 per week for three weeks and that he paid nothing for every fourth week; that on December 01, 2010 he began paying monthly rent of \$740.00; that the Tenant paid 2% tax on his payments; that beginning in December of 2010 his rent was due in advance on the first day of each month; that he paid a cash security deposit of \$100.00; that the security deposit would not have been necessary if he had presented a credit card; that the parties did not have a written agreement; that this was the Respondent's only place of residence; and that either party could end the agreement by giving verbal notice.

Analysis

The *Act* defines a tenancy agreement as a written or oral agreement, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a license to occupy a rental unit.

A license to occupy is a living arrangement that is not a tenancy. Under a license to occupy, a person, or "licensee", is given permission to use a site or property, but that permission may be revoked at any time. Under a tenancy agreement, the tenant is given exclusive possession of the site for a term, which can include month to month.

On the basis of the information provided at the hearing, I find that the Respondent was paying monthly rent since December of 2010; that he was paying the rent in advance; and that he was paying the rent on the first day of each month. I find that this payment agreement entitled the Respondent to exclusive possession of the rental unit for each month.

On the basis of the information provided at the hearing, I find that the Applicant believed that either party could end this agreement with verbal notice. The fact that the Applicant believed the agreement would end with verbal notice causes me to believe that the parties understood that the agreement would continue until it is ended with some sort of notice. This differs from staying in a hotel, where there is a general understanding that the party will vacate at the end of each term unless they renew their agreement.

On the basis of the information provided at the hearing, I find that the Applicant paid a security deposit of \$100.00.

On the basis of the information provided at the hearing, I find that this rental unit was the Applicant's only home. I therefore find that the true nature of the occupancy was residential accommodation. As this rental unit was not used for vacation or travel purposes, and is not exempt from the Act pursuant to section 4(e) of the Act, I find that the Act must apply.

Conclusion

When considered in its entirety, I find that the agreement between the Applicant and the Respondent in regards to this rental unit is a tenancy agreement and that it falls under the jurisdiction of the *Act*.

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: June 14, 2011.

Residential Tenancy Branch