



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution by an Occupant to obtain a Monetary Order for the return of his security deposit and to recover the cost of the filing fee from the Landlord for this application.

The parties appeared at the teleconference hearing, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issue(s) to be Decided

1. Is the Applicant a Tenant?
2. If so, has the Landlord breached the *Residential Tenancy Act*, regulation or tenancy agreement?

Background and Evidence

The Agent for the Occupant confirmed that during the tenancy the occupants were instructed to pay their rent to the building manager. This building manager instructed them to serve the Landlord by sending papers to the rental unit address. When the Occupant and his Agent attempted to serve the building manager with the evidence on June 14, 2011 he refused so it was slipped under his door on June 15, 2011.

The Occupant testified that he is in Canada on a study permit and that he has occupied the rental property since December 24, 2010 until he moved out on May 1, 2011. He occupied the rental unit with the person who is named on the written receipt / tenancy agreement document that was provided in his evidence. They paid the building manager the rent on the first of each month in the amount of \$1,550.00. \$350.00 was paid on December 24, 2010 as the security deposit and an additional amount of \$450.00 was paid January 1, 2011 bringing the total security deposit to \$800.00.

The Respondent testified that he did not know who the applicant was or why he was attending this hearing. He stated that he received a text message from the Agent advising him to call into this hearing today.

The Agent confirmed she sent the text message and argued that the Occupant resided at the unit and paid rent. She confirmed that the Respondent may not know who the Occupant was as the rent was always paid to the building manager. She confirmed there was no other written document pertaining to the tenancy and the Occupant's name is not listed on any document with the Respondent. The person who is named on the receipt / tenancy agreement is no longer living in the Country.

Analysis

The evidence supports the person who is named in the written document (receipt/tenancy agreement) that was provided in evidence is not the person who is named as the Applicant of this dispute.

The *Residential Tenancy Policy Guideline #13* defines an occupant as follows:

Where a tenant allows a person who is not a tenant to move into the premises and share the rent, the new occupant has no rights or obligations under the tenancy agreement, unless all parties agree to enter into a tenancy agreement to include the new occupant as a tenant.

In this case the Respondent attended the hearing and advised that he did not know who the applicant was. In the absence of evidence to prove the Applicant and Respondent entered into a tenancy agreement, I find the Applicant is an Occupant and has no rights under the *Residential Tenancy Act*.

Furthermore there is insufficient evidence to support the Applicant was the person who paid the Respondent the security deposit.

Based on the aforementioned, I find the application must fail.

The Applicant has not been successful; therefore he must bear the burden of the cost to file his application.

Conclusion

I HEREBY DISMISS the Applicant's application, without 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: June 20, 2011.

Residential Tenancy Branch