



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for an Order for compensation for loss.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

At the onset of the Hearing, the Landlord requested that the application be amended to correctly spell the Landlord’s name. The Tenant did not dispute this request. Given this request came from the Respondent in this matter, and given that this amendment would not prejudice the Tenant/Applicant, I amend the application to correctly spell the Landlord’s names.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amount claimed?

Background and Evidence

The tenancy of a basement unit began on March 1, 2011. The Tenant states that a third party living in the upper unit asked the Tenant to move into the unit as this person was experiencing financial difficulties. The Tenant states that the Landlord was aware that the Tenant was in the basement unit as a Ministry form was filled out identifying the Landlord and that a security deposit of \$362.00 was paid to the Landlord from the Ministry. The Landlord states that no security deposit was ever received from the Tenant and that the Landlord did not know that the Tenant was living in the basement

unit of a house rented in its entirety to the third party. The Tenant states that the Landlord was aware of the basement unit being rented and that cheques were sent from the Ministry directly to the Landlord. The Landlord states that they were aware that the third party, a long term and good tenant, was having financial difficulties and that since March 2011, the third party would pay by a Ministry cheque made out to the Landlord and cash. The Landlord states that the Ministry cheques were not mailed to the Landlord and the Landlord assumed that the Ministry cheques were made on behalf of the third party.

Analysis

Section 6 of the Act provides that the rights and obligations established under the Act are enforceable between a landlord and tenant under a tenancy agreement. Given the Tenant's evidence that the arrangements for the tenancy were made with the third party, and considering the Landlord's evidence that he had no knowledge about the tenancy of the Tenant, I find that the Tenant has failed to substantiate on a balance of probabilities that a tenancy agreement exists between the Tenant and the person named in the application as the Landlord. This application is therefore dismissed with leave to the Tenant to reapply against the third party.

Conclusion

The application is dismissed with leave to reapply against the third party.

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: March 28, 2012.

Residential Tenancy Branch