



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, O

Introduction

This hearing dealt with an application by the tenant for a monetary order. All parties participated in the conference call hearing.

Issue to be Decided

Are both respondents properly named as landlords?
Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The tenancy took place from August 2009 to October 2010 and was a shared accommodation between the tenant, his half-brother JM who is named as a respondent and for a short period of time, another person. A copy of the tenancy agreement was not submitted, but the tenant testified that he recalled having signed an agreement. The tenant testified that the agreement was with the corporate landlord, MBD, and that his rent was paid to MBD directly by the Ministry of Employment and Income Assistance.

The parties agreed that in September 2010, the tenant was served with a one month notice to end tenancy which was to take effect on October 31, 2010. The tenant did not dispute the notice.

The parties agreed that on October 31, the tenant had not made any effort to move out and JM insisted that he leave. The tenant telephoned the police who apparently advised the tenant that he had to leave the rental unit. The tenant testified that JM told him to just take what he could carry and leave the rest. The tenant complied with this directive, surrendered his keys to the attending police officer and left with just his backpack.

The tenant testified that he left most of his belongings in the unit and estimated their value at \$23,000.00. He stated that the items included a \$12,000.00 collection of sports, celebrity and magic collectors cards, furniture, 2 older televisions, a DVD

collection and 4 computers. The tenant claimed that he did not contact either the landlord or JM in order to retrieve his belongings, claiming that JM would bully him and was spiteful and petty. He testified that approximately one month after he vacated the unit, he was advised by a friend that JM had discarded his belongings.

JM acknowledged that he told the tenant to vacate the unit on the last day of the tenancy and testified that when he told the tenant to take whatever he could carry, he also said that he should make arrangements to retrieve the belongings left behind. JM testified that he stored the items until March 2011, at which time he discarded the tenant's clothing, following which he gradually disposed of the remaining items. JM indicated that he did not believe the items to have significant value. He claimed that some of the furniture fell apart when he attempted to move it and that most was in poor condition. He further testified that the tenant had a very small DVD collection, with most of the movies being in a VHS format.

The tenant seeks to recover the value of his items as well as aggravated damages in the amount of \$1,500.00 as he claimed that the landlords worked together to remove him without cause.

Analysis

The first issue I must address is whether both or just one of the respondents are landlords. I find that the evidence shows that the tenant negotiated the living arrangement with MBD, an agent of MBD signed the tenant's shelter information and his rent was paid directly to MBD. While JM assumed some authority in the tenancy, I am unable to find on the evidence that he did so on the behest of MBD. I see no indication that MBD either formally appointed JM as his agent or in any way authorized JM to act on his behalf.

As the Act is only designed to address claims between landlords and tenants, I find that the tenant did not have a landlord/tenant relationship with JM and that JM cannot be characterized as a landlord and therefore any dispute against JM falls outside the jurisdiction of the Act. For this reason I dismiss the claim as against JM.

MBD issued the tenant a notice to end tenancy which he did not dispute. Although at the hearing the tenant claimed that the MBD did not have cause to end the tenancy, that question is irrelevant because the tenant did not dispute the notice. The tenant was conclusively presumed to have accepted that the tenancy ended on October 31, 2010 pursuant to the notice.

The tenant did not at any time allege that he informed MBD that JM forced him from the unit. Further, the tenant testified that he did not advise MBD that his belongings had been left behind in the rental unit. I find that the tenant had an obligation to inform the landlord if he believed that JM was acting improperly as MBD would have had the authority to compel JM to comply with his obligations under the Act and tenancy agreement. Because the tenant did not advise MBD of any of the events surrounding the end of the tenancy, I am unable to hold MBD liable for the actions of JM and any losses that the tenant may have suffered as a result of those actions.

For this reason I dismiss the claim as against MBD.

Conclusion

The claim is dismissed in its entirety.

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: July 27, 2012

Residential Tenancy Branch