



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 the Applicant for a monetary order for the return of a security deposit.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Preliminary issue

The first issue that I must decide is whether the Act has jurisdiction over the parties in order to proceed with the application.

The applicant submitted that she rented a room for the respondent and the respondent is not the owner of the unit. The respondent is a tenant who has a tenancy agreement with the landlord/owner.

The respondent submitted that she is a tenant with a tenancy agreement with the owner of the property. The respondent stated she occupied the rental unit and rented a room to the applicant to help pay the rent.

The parties agreed the applicant does not have any obligation to the landlord/owner to pay rent as she is not a co-tenant on the tenancy agreement.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

“Landlord”, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
- (i) permits occupation of the rental unit under a tenancy agreement, or

(ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

(b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);

c) a person, other than a tenant occupying the rental unit, who

(i) is entitled to possession of the rental unit, and

(ii) exercises any of the rights of a respondent under a tenancy agreement or this Act in relation to the rental unit;

(d) a former landlord, when the context requires this;

Section 13 of the Residential Tenancy Policy Guidelines states:

Where a tenant allows a person who is not a tenant to move into the premises and share 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 is a tenant who was occupying the rental unit and allowed another person to move into the premises and share rent, under an agreement. A new tenancy agreement with the owner of the rental unit to have the applicant added as a co-tenant was never entered into. Therefore, I find the applicant is an occupant as defined under the guideline and not a tenant and has no rights or obligation under the tenancy agreement.

As this is a dispute between a tenant and an occupant and not a dispute between a landlord and tenant. I find that there is no jurisdiction for the applicant to proceed with their application and I dismiss the application without leave to re-apply.

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: August 16, 2012.

Residential Tenancy Branch