



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR FF O

Introduction

This hearing dealt with an Application for Dispute Resolution by the Applicant for a monetary order for damage to the unit, site or property, for unpaid rent or utilities, to recover the filing fee and “other”.

Both parties attended the hearing. The applicant confirmed that he did not submit evidence in support of his claim.

Preliminary issue and Background

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

A verbal agreement between the applicant and respondent was entered into on October 1, 2009. The respondent agreed to pay the applicant a portion of the total rent in the amount of \$1,100.00 on the first of each month.

The parties agreed that the respondent is an occupant who rented a room from the applicant tenant of the rental unit. The applicant tenant paid the total rent to the landlord who did not live in the rental unit. The applicant and the respondent shared a kitchen in the rental unit.

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;

[emphasis added]

The evidence of the applicant is that respondent paid rent to the applicant who is a tenant based on a verbal agreement. **I find** the applicant in this matter is a tenant and not a landlord, as defined by the *Act*.

Section 13 of the Residential Tenancy Branch 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 applicant allowed another person to move into the premises and share rent, under a verbal agreement. A new tenancy agreement with the owner of the rental unit to have the respondent added as a co-tenant was never entered into. Therefore, **I find** the respondent is an occupant as defined under the policy guidelines and not a tenant and has no rights or obligation under the *Act*.

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. Therefore, **I dismiss** the application without leave to re-apply.

Conclusion

The applicant's application is dismissed due to lack of jurisdiction, without leave to re-apply.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 04, 2012

Residential Tenancy Branch