



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, and FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Applicant applied for the return of the security deposit, a monetary Order, and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing.

Issue(s) to be Decided

Do I have jurisdiction in this dispute?

Background and Evidence

The Applicant and the Respondent agree that the Applicant has a tenancy agreement with the landlord of the rental unit and that she permitted the Applicant to share these living accommodations with her in exchange for the Applicant paying a portion of the rent.

The Respondent stated that she was not acting on behalf of her landlord when she permitted the Applicant to live in the rental unit. The Applicant stated that he does not believe the Respondent was acting on behalf of the landlord when she allowed him to live in the rental unit. The parties agreed that they had a relationship that would typically be characterized as roommates.

Analysis

Before considering the merits of this Application for Dispute Resolution I must determine whether this application has jurisdiction under the *Residential Tenancy Act (Act)*. The legislation does not confer authority to consider disputes between all types of relationships. Only relationships between landlords and tenants can be determined under the *Act*.

The undisputed evidence is that the Respondent is a tenant in the rental unit and that she does not have authority to act on behalf of her landlord or to represent her landlord's interests.

The *Act* defines a landlord 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 landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

As there is no evidence to show that the Respondent is the owner of the rental unit, the owner's agent, or another person who is acting on behalf of the owner, I find that the Respondent is not a landlord as defined by section 1(a) of the *Act*.

As there is no evidence to show that the Respondent is an heir, assign, personal representative or successor in title to a person referred to in section 1(a) of the *Act*, I find that the Respondent is not a landlord as defined by section 1(b) of the *Act*.

As the evidence shows that the Respondent is a tenant who is occupying the rental unit, I find that she is not a landlord as defined by section 1(c) of the *Act*.

As there is no evidence to show that the Respondent is a former landlord of this rental property, I find that the Respondent is not a landlord as defined by section 1(d).

In these circumstances the Applicant must be considered an occupant as defined in the *Residential Tenancy Policy Guideline Manual*, which stipulates that when 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.

I find that the legislation has contemplated this type of circumstance and in the absence of evidence of a joint tenancy, the *Act* does not apply. Therefore, I find that neither the Applicant nor the Respondent is governed by this *Act*.

Conclusion

As the *Act* does not apply to these parties, I find that I do not have jurisdiction in this matter and I dismiss the Application for Dispute Resolution.

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: January 23, 2013

Residential Tenancy Branch

