



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, OLC, RPP, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested an Order the landlord comply with the Act, compensation for damage of loss under the Act; return of the tenant's personal property and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing; the tenant entered the hearing 8 minutes late. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matter

The landlord raised the issue of jurisdiction; therefore I have provided an analysis of jurisdiction as the initial issue to be decided.

Jurisdiction

The tenant viewed the room on November 3, 2013 and took some personal effects to the property. There is no dispute that the tenant paid the landlord \$200.00.

The landlord said that he runs a Bed and Breakfast; there are 4 rooms, 1 of which is occupied by a long-term tenant. The landlord accepted a \$200.00 payment from the tenant, for a 1 week stay. Each room in the home has a sign on the back of the door which indicates that the business is operated under the Innkeeper's Act. The rules indicated on the door also state that an occupant may be removed from a room with twenty-four hours notice.

The tenant said that he paid a \$200.00 security deposit to the landlord and that he had expected to remain in the room for the month. The tenant did not offer any information

in relation to what monthly rent he expected to pay. The tenant did not dispute the notice setting out rules was posted to the back of the door in his room.

Jurisdiction Analysis

Residential Tenancy Branch policy suggests that a license to occupy is a living arrangement that is not a tenancy. Under a license to occupy, a person is given permission to use a property, but that permission may be revoked at any time. Under a tenancy agreement, the tenant is given exclusive possession of the site for a term, which can include month to month and the landlord may only enter the site with the consent of the tenant.

Factors that weight against a tenancy include the absence of payment of a security deposit, the owner retains access or control over portions of the site, the owner retains the right to enter the site without notice and that the occupier can be evicted without a reason and that he may vacate without notice.

I find that, on the balance of probabilities, the tenant made a payment for a short-term stay as a licensee and that the agreement did not meet the requirements of the Residential Tenancy Act. There was no evidence before me that the tenant paid for anything other than a room for a 1 week stay; that the tenant had exclusive possession of the room he rented or that any discussion even occurred in relation to a monthly rental amount. I find, on the balance of probabilities that the payment to the landlord was not made as a security deposit.

The landlord had possession of the residential property and there was no evidence before me that the landlord did not possess the right to enter the room. The tenant did not dispute the landlord's submission that the tenant could be evicted with twenty-four hours notice; as set out in the rules posted to the back of the tenant's door.

Therefore, I find that jurisdiction is declined.

Conclusion

Jurisdiction is declined.

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: March 25, 2013

Residential Tenancy Branch

