



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution by the Applicant for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and for the return of all or part of the security deposit.

The applicant and an advocate for the applicant attended the hearing. As the respondent did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The advocate provided affirmed testimony that the Notice was served on the respondent by registered mail on January 9, 2013. The applicant provided a registered mail receipt with tracking number as evidence and confirmed that the name and address matched the name and address of the respondent. The advocate stated that the evidence package was mailed via registered mail on March 15, 2013 to the respondent. The applicant provided a registered mail receipt with tracking number as evidence and confirmed that the name and address matched the name and address of the respondent.

Documents sent by registered mail are deemed served five days after mailing under the *Act*. I find the respondent was duly served on the fifth day after mailing, in accordance with the *Act*.

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.

The applicant stated that a verbal tenancy agreement was made November 21, 2012 when he provided a \$325.00 cash security deposit to the respondent. The applicant submitted a receipt in evidence which shows the amount of \$325.00 and is listed as a "retainer fee".

On November 29, 2012, the applicant stated that the respondent advised him that the room was no longer available as the current tenant had decided to stay longer. The applicant stated that on December 6, 2012, he mailed a letter to the respondent requesting the return of his security deposit which was not returned by the respondent.

The applicant stated that the respondent originally advised him that he was the owner of the rental property which the applicant later discovered was not correct, in that the respondent was actually a tenant of the rental property. The verbal agreement was for the applicant to rent a room with the respondent, which shared a common kitchen and bathroom.

The advocate stated that the respondent is a tenant of a numbered company, the landlord. There was no evidence provided that the respondent was permitted by the numbered company, the landlord, to sublet a room to the applicant.

The applicant is seeking the return of double his security deposit under the *Act*.

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]

I find the respondent is a tenant and not a landlord, as defined by the *Act*. The applicant and the advocate for the tenant confirmed that the respondent is a tenant of a numbered company.

The *Act* does not provide for jurisdiction to hear tenant versus tenant disputes. As this is a dispute between a tenant and another tenant, who is not a landlord under the *Act*, **I find** that there is no jurisdiction to hear this dispute. Therefore, **I dismiss** the application without leave to re-apply.

Conclusion

The applicant's application is dismissed due to lack of jurisdiction.

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 26, 2013

Residential Tenancy Branch

