



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, OLC, FF

Introduction

The Applicant seeks return of a security deposit paid to the Respondent; an Order that the landlord comply with the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Respondent.

The Applicant gave affirmed testimony at the Hearing. The Respondent did not attend.

Preliminary Matter

At the outset of the Hearing, the Applicant testified that she rented a room from the Respondent, who was not the owner of the residence. She stated that the Respondent was renting the residence from someone else. The Applicant stated that she did not rent a suite, but only a room and that she shared the kitchen, bathroom and other living areas with the Respondent and another occupant.

The Applicant stated that the Respondent took a security deposit and a monthly “cleaning fee” from her. She stated that the Applicant rented out another room in the residence as well as the one she rented. She did not know if the Applicant’s landlord was aware of the arrangement, or if she was acting on her own, but stated that the Applicant rented out rooms regularly and collected security deposits and monthly “cleaning fees”.

Analysis

The dispute resolution process considers applications between tenants and landlords as they relate to tenancy agreements and rights, obligations and prohibitions under the *Residential Tenancy Act* (the “Act”).

Section 1 of the Act defines “tenancy agreement” as follows:

“tenancy agreement” means an agreement, whether written or oral, express or implied, between a **landlord and a tenant** respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;

(emphasis added)

Section 1 of the Act defines "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;

(emphasis added)

Based on the testimony of the Applicant, I find that the Respondent is a tenant occupying the rental unit in which the Applicant rented a room, and is therefore not the Applicant's "landlord" as defined by the Act. I find that Applicant is an occupant only. Occupants have no rights or obligations under the Residential Tenancy Act.

Therefore, I find that there was no tenancy agreement between the parties as defined by the Act and I decline jurisdiction.

Conclusion

I decline jurisdiction in this matter as I find that the Applicant was an occupant and that no tenancy agreement existed between the parties as defined by the Act.

Dated: May 23, 2013