



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vantage Point Ventures
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss.

The tenant appeared; the landlord did not appear.

The tenant testified that he served the landlord with his Application for Dispute Resolution and Notice of Hearing by leaving it with the landlord's agent at the head office on April 12, 2013.

I accept the tenant's testimony and find the landlord was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act"); the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation?

Background and Evidence

The tenant said that he never signed a tenancy agreement; rather the tenant said that he rented a room from the actual tenant of the landlord.

The tenant went on to say the landlord did sign an "Intent to Rent" form for the government ministry issuing disability payments, and that his rent payments from that ministry went directly to the landlord, not the actual tenant.

The tenant's monetary claim is \$425, which is his monthly rent payment for April 2013. In explanation the tenant said that on March 28, 2013, he was violently assaulted by someone breaking into the rental unit, which caused the tenant to move out as he feared for his safety.

The tenant claims the rent cheque for \$425 for April had already been sent to the landlord, and that he was entitled to a return of these funds as he no longer felt safe to live in the rental unit as of March 28, 2013.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

In a claim for monetary compensation under the Act, which falls in sections 7 and 67, or tenancy agreement, the claiming party, the tenant in this case, has to prove, with a balance of probabilities, four different elements:

First, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In the case before me, although the tenant said that he had an agreement with the actual tenant renting from the landlord, I accept that a tenancy between this tenant and the landlord was created as the landlord allowed occupancy of the rental unit and accepted monthly rent from the tenant.

As to the issue of financial compensation, under these circumstances, I find that rent for April 2013, was owed, as the tenant suddenly vacated the rental unit on March 28, without notice to the landlord. Section 45 of the Act requires a tenant to give written notice to end the tenancy that is not earlier than one month after the date the landlord receives the notice and is at least the day before the day in the month that rent is payable under the tenancy agreement. In other words, one clear calendar month before the next rent payment is due is required in giving notice to end the tenancy.

As I find that rent was owed for April, I find that the tenant submitted insufficient evidence that the landlord violated the Act when receiving the rent, and I therefore dismiss his application for a monetary order for \$425, without leave to reapply.

Conclusion

The tenant's application is dismissed, without leave to reapply.

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* and is being mailed to both the applicant and the respondent.

Dated: July 08, 2013

Residential Tenancy Branch

