



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lions Court Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the tenant: MNSD, FF
For the landlord: MNDC, MNSD, FF

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the "Act").

The tenant applied for a return of her security deposit, doubled, and for recovery of the filing fee.

The landlord applied for authority to retain the tenant's security deposit, a monetary order for money owed or compensation for damage or loss, and for recovery of the filing fee.

The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties were provided the opportunity to present their evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence of the parties before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matter- At the outset of the hearing, the tenant said she delivered her documentary evidence to the landlord at the landlord's office, and the landlord contended that he had not received the tenant's evidence.

Issue(s) to be Decided

1. Is the tenant entitled to a return of her security deposit, which has now been doubled, and to recover the filing fee?
2. Is the landlord entitled to monetary compensation, authority to retain the tenant's security deposit and to recover the filing fee?
3. Does this dispute fall under the jurisdiction of the Residential Tenancy Act?

Background and Evidence

Tenant's application-

The tenant's monetary claim is \$1350, which is the amount of her security deposit of \$675, doubled.

According to the tenant, she never signed a tenancy agreement; instead she paid a security deposit of \$675 on April 30, without receiving a receipt despite asking for one.

The tenant claimed she never moved into the rental unit, claiming that her agreement with the landlord was that the tenancy was to start on May 15, 2013, and that she would begin paying monthly rent on that date. The tenant pointed out that she dealt with another agent of the landlord, not the one attending the hearing.

The tenant submitted that she attended the office of the landlord, was denied a written tenancy agreement, and was told that she owed rent for the entire month of May 2013.

The tenant stated that when she saw the condition of the rental unit, such as filthy carpets and belongings of another tenant, she informed the landlord that she was not moving her family into the rental unit, as they refused to clean or shampoo the carpets.

Landlord's response-

The landlord agreed that the tenant paid a security deposit of \$675 and that there was no written tenancy agreement which was signed; instead the landlord stated that the tenant signed an application to rent the suite.

The landlord submitted that the tenant refused to sign a tenancy agreement, and that their agreement was for a 12 month lease.

Landlord's application-

The landlord's monetary claim is in the amount of \$3375, comprised of alleged unpaid rent of \$675 for May 2013, \$1350 for June 2013, and \$1350 for July 2013.

The landlord submitted that they are entitled to a loss of rent revenue for these months until the rental unit was rerented, as the intent of the parties was to enter into a 12 month, fixed term tenancy, and the tenant never moved in or paid the rent, causing said loss.

Analysis

In order for either party to succeed in this application, they must show that the *Residential Tenancy Act* applies. In order to find the Act applies, I must be satisfied that

the parties entered into a tenancy and that the parties had a landlord and tenant relationship.

Section 13 of the Act gives the requirements for tenancy agreement, among which include the standard terms, the date the tenancy agreement is entered into, the start date of the tenancy, and the amount of rent payable.

In the case before me, I find the parties provided insufficient evidence that a consensus as to the terms of the tenancy, such as to the start date of the tenancy or the terms and condition, were ever agreed upon by the parties.

As such, I find that, while the parties contemplated entering into a tenancy, a tenancy agreement was never created between these two parties. An application for a tenancy is not the same as a tenancy agreement and the parties disagreed upon the most basic of terms, including the start date of the tenancy.

I therefore cannot find on a balance of probabilities that the applicant/tenant and applicant/landlord had entered into a landlord-tenant relationship and I therefore decline to find jurisdiction to resolve this dispute.

The parties are at liberty to seek the appropriate legal remedy to this dispute.

Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute contained in either application for dispute resolution of the parties and I have declined jurisdiction.

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: October 18, 2013

Residential Tenancy Branch

