



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing involved an Application for Dispute Resolution made by the Applicants, seeking a monetary order for compensation owed or compensation for losses under the Residential Tenancy Act (the “Act”) or tenancy agreement, and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue(s) to be Decided

Is there jurisdiction under the Act in this matter?

If there is jurisdiction, are the Applicants entitled to monetary compensation?

Background and Evidence

The Applicant testified that she had a friend who was living in the subject property (the “Friend”), and the family of their Friend approached the Applicants and explained the Friend was ill and had paid the rent for the month of May 2013. The Applicant testified the family wanted someone to take care of the Friend’s dogs and to look after the property.

The Applicant testified she contacted one of the respondents named herein, "G.V.", and according to her testimony, he informed the Applicants it should be no problem for them to move in and look after the property, or words to that effect.

G.V. is employed by the property management firm named as a respondent in this Application.

According to the Applicants, G.V. informed them to send the rent of \$500.00 to a lawyer's office in the form of a money order.

The Applicant testified she called the lawyer's office several times but did not hear back from the lawyer or the office. The Applicant testified they moved into the subject property before May 27, 2013.

The Applicant testified she was never given any keys for the subject property. She testified the doors were unlocked so they moved in.

Based on an affidavit sworn by the legal assistant who appeared in this matter, and which was submitted into evidence with exhibits attached, I note the title search for the subject property is registered in the name of two owners. One of the owners listed is now deceased. The subject property went into foreclosure and on February 6, 2013, the mortgage holder obtained an order for the conduct of sale of the subject property which was also attached as an exhibit, from a Master in the Supreme Court of British Columbia.

The Applicants sent a money order dated May 29, 2013, to the lawyer's office, a copy of which was produced in evidence.

The Applicant testified she was contacted on or about May 31, 2013, by the legal assistant and was informed the Applicants had no authority to live at the subject property because the Friend was not the property owner and had no authority to rent the subject property to a third party.

The Applicants wrote to the lawyer and asked to remain in the subject property until the end of June. This letter was apparently received by the lawyer's office on June 10, 2013.

On June 10, 2013 the lawyer wrote to the Applicants and informed them they would have to vacate by the end of June. The money order was returned.

On June 17, the legal assistant contacted the Applicants. The legal assistant testified and provided an affidavit that the Applicants informed her they had vacated the property although they had left a few items in the subject property. The Applicants were informed about the procedure to recover any items left in the subject property.

The Applicant testified they could not put power or water into their names, so the Applicants were staying at another acquaintances' residence. According to her testimony, the Friend's dogs had been taken by the SPCA.

The lawyer testified that the son of the deceased owner had initially occupied the subject property and when he vacated the house, he put in place the Friend to live in the property. The lawyer argued there is no tenancy here, as the Applicants had no tenancy agreement with the owner of the property, and the Friend had no authority to sublease the property.

The lawyer testified there was never any authority granted to rent the property and no receiver had been appointed to collect rents. The lawyer argued there is no landlord or tenancy relationship here.

The Agent for the property management company testified that G.V. does not and never has had authority to rent out the subject property. The Agent testified G.V. has been their employee for several years and has never rented out a property, he simply checks the subject property once per month.

The Agent testified the property management company was hired by the mortgage holder to take care of the property. The Agent testified that the subject property was secured on June 25, 2013, and that the Applicants were allowed to remove their property on July 4, 2013, under supervision of the property management company.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Act has no jurisdiction in this matter.

The term "Landlord" is defined in section 1 of the Act. I find the Applicants never established a tenancy agreement with the owner of the subject property, and I find the Applicants have failed to prove that a tenancy agreement ever existed between them and an owner of the property, or that a tenancy was established with any of the parties named as Respondents here. In short, I do not find the Applicants had any dealings with a landlord for the property, as defined in the Act.

The Respondents named here were never agents for an owner and therefore, never acted in the capacity of a landlord. I find the Applicants have no rights under the Act in this matter. I further find the Applicants have not named an owner of the property in this Application.

As I do not find jurisdiction under the Act, I have no authority to grant the relief sought by the Applicants. The Application is dismissed without leave to reapply.

The Applicants were advised during the hearing they might seek legal advice for other forums that may have jurisdiction in this matter.

Conclusion

I find the Act has no jurisdiction in this matter. There was no tenancy agreement or tenancy relationship established with an owner of the property as required under the Act. There was no Landlord and no tenancy established. The Applicants had no rights under the Act.

The Application is dismissed without leave to reapply.

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 Act.

Dated: November 05, 2013

Residential Tenancy Branch

