



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC RPP OPT

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, for an order directing the landlord to return the tenant's personal property, and to obtain an order of possession of the rental unit or site.

The applicant, the landlord, the son of the landlord, and a witness for the landlord, attended the hearing. The landlord confirmed that they did not serve their evidence on the applicant as the applicant listed the rental unit address on his application and no longer resides in the rental unit. As a result of the landlord failing to serve their evidence to the address provided by the applicant on the applicant's application, the landlord's evidence was excluded from the hearing.

Preliminary Matters and Background

By mutual agreement, the name of the landlord was amended to reflect the correct spelling of the landlord's name in the applicant's application for dispute resolution. The correct legal name of the landlord is reflected in this Decision as a result.

The applicant confirmed that he did not have the consent of tenant KL to file the application for dispute resolution. The applicant stated that he has not been able to contact tenant KL or the landlords. As a result of the above, tenant KL, was removed from the applicant's application as I am not satisfied that tenant KL provided consent for applicant PL to act on her behalf to file an application for dispute resolution.

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 he signed a tenancy agreement with the landlord, which the landlord denied. The landlord's witness, KL, stated that she was the tenant of the landlord's and that she was only renting a room to the applicant for one month and that the applicant was an occupant. The applicant began to badger the witness, so the witness was excused from the hearing, and the tenant was advised that his badgering of the witness was not acceptable.

The landlord testified that the only signed agreement was with KL, and that a signed tenancy agreement exists to support that the only tenant was KL, and that the applicant was never a tenant, and just an occupant who has since vacated the rental unit.

Analysis

Based on the evidence provided by the parties during the hearing, I find the following.

Section 13 of the Residential Tenancy Branch Policy Guidelines states:

Where a tenant allows a person who is not a tenant to move into the premises and share rent, the new occupant has no rights or obligations under the tenancy agreement, unless all parties agree to enter into a tenancy agreement to include the new occupant as a tenant.

I prefer the evidence of the landlord that the only signed tenancy agreement was with tenant KL, as the landlord presented witness KL who testified under oath that she allowed the applicant to live with her for a month and that the applicant was never a tenant and was just an occupant.

The applicant failed to provide any supporting documentary evidence that a tenancy agreement was signed by the landlord and that the applicant was added as a tenant to the tenancy agreement. Therefore, **I find** the applicant is an occupant as defined under the policy guidelines and not a tenant and has no rights or obligation under the *Act*.

Based on the above, **I find** there is no jurisdiction for the applicant to proceed with their application under the *Act* as an occupant has no rights under the *Act* to file for dispute resolution. Therefore, **I dismiss** the application of the applicant without leave to re-apply.

Conclusion

The applicant's application is dismissed due to lack of jurisdiction as the applicant is an occupant and not a tenant under the *Act*.

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: November 14, 2013

Residential Tenancy Branch

