



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for alleged damage to the rental unit, for authority to retain the tenant's security deposit, and for recovery of the filing fee.

The landlord attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that she served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on October 21, 2013. The landlord supplied testimony of the tracking number of the registered mail and stated that the tenant's father supplied the forwarding address for the tenant.

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

The landlord was provided the opportunity to present her 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 Dispute Resolution 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 landlord entitled to retain the tenant's security deposit, further monetary compensation, and to recover the filing fee?

Background and Evidence

The landlord testified that she rents the rental unit from the owner, and in turn, she, the landlord, leased a room to the tenant, beginning at the end of June 2013. The landlord further stated that the tenant vacated the room on September 30, 2013, that her monthly rent obligation was \$370, and that the tenant paid a security deposit of \$185.

The landlord's monetary claim is \$236.19, which includes sanitizing the bed for \$178.20, cleaning for \$30, bath towels for \$20, and personal products for \$7.99.

The landlord said that the tenant failed to clean her room prior to vacating, that the bed required sanitizing after the tenant vacated, and that the tenant stole items from the rental unit, for which the tenant was responsible.

The landlord supplied no documentary evidence in support of her application.

Analysis

The Act defines a landlord, in relation to a rental unit, as the owner, the agent for the owner, or someone on behalf of the owner who permits occupation of the rental unit and performs duties under the Act or the tenancy agreement.

I accept the evidence before me that the listed landlord, the applicant here, is a tenant of the owner and that she supplements her obligation to pay rent to the owner by renting out a portion of her rental unit.

In addition, I find that the applicant cannot meet the definition of a landlord as defined by the Act. There is no evidence that the applicant has the authority to act on behalf of the owner or as the agent and is excluded by subsection (c) of the definition of "landlord" in the Act as she occupies the rental unit.

Additionally, I find that the tenant does not have the rights conferred under the Residential Tenancy Act to a tenant; for instance, the respondent could not request a repair to the rental unit to the owner, or to allow a rent reduction, or request an order changing the locks, among other things.

As a result I find that the applicant is considered an "Occupant" as defined in the *Residential Tenancy Branch Policy Guideline*, section 13: Rights and Responsibilities of Co-Tenants:

Occupants

Where a tenant allows a person who is not a tenant to move into the premises and share the 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.

Therefore, I find this dispute as between the parties listed here as tenant and landlord does not fall within the jurisdiction of the Act as I find that neither party is a landlord or a tenant, as defined in the Act.

Conclusion

I therefore decline to accept jurisdiction of the applicant's application.

The applicant is at liberty to seek the appropriate legal remedy to this dispute.

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: January 22, 2014

Residential Tenancy Branch

