



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, FF

Introduction

On October 16 2013, the landlords' application was dismissed and the tenants were granted a monetary for double the security deposit.

On December 13, 2013, the landlords made an application for review consideration, which was granted on the basis that they were unable to attend at the original hearing because of circumstances that could not be anticipated and were beyond their control. The arbitrator ordered the parties to participate in a new hearing, and the original decision was suspended. The arbitrator at the new hearing may confirm, vary or set aside the original decision.

This new hearing dealt with an Application for Dispute Resolution by the landlord to keep all or part of the security deposit.

Both parties appeared, gave 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.

Preliminary issue

The parties at the outset of the hearing agreed that the only tenant listed on the tenancy agreement was (AJ). (NS) and (CC) agreed they did not enter into a new tenancy agreement with the landlords add them as tenants.

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 original tenancy agreement, unless all parties (owner/agent, tenant, occupant) agree to enter into a tenancy agreement to include the new occupant as a tenant.

Based on the above evidence, I find (NS) and (CC) are occupants under the Act and not tenants. As a result, I find there is no jurisdiction under the Act that allows the landlord to seek compensation from the occupants. Therefore, I dismiss the landlords' application due to lack of jurisdiction.

The landlords are at liberty to make an application against the tenant (AJ), when the tenant provides the landlord with their forwarding address in writing.

As the original decision and order were granted to the occupants, I find the occupants were not entitled to receive a monetary order for the return of the security deposit.

Therefore, the original decision and order made on December 16, 2013, are set aside.

Conclusion

The original decision and order made on December 16, 2013, is set aside.

The landlords' application is dismissed due to lack of 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: February 07, 2014

Residential Tenancy Branch

