



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenants' application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for a return of their security deposit.

The two tenants and respondent JB, attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence.

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

1. Are the tenants entitled to a monetary order?
2. Does this dispute fall under the jurisdiction of the *Residential Tenancy Act* so that I have authority to resolve this dispute?

Background and Evidence

The tenants submitted that they had made arrangements with PG to rent the rental unit owned by JB and that they were instructed by respondent PG to deal only with her as they were not to contact JB.

The tenants stated they paid PG, who posed as the landlord, a security deposit of \$580 and after feeling uneasy due to the actions of PG, they backed out of the tenancy agreement, never moving in.

The tenants requested a return of their security deposit.

In response, JB said that PG rented her condominium for two months and was told by PG that she had two friends who would move into the rental unit thereafter. JB submitted that she was never given the contact information of the tenants here.

JB submitted that PG received the tenants' money, and never gave JB said funds.

Analysis

In order for me to make a decision on the tenants' application, I must first decide whether a tenancy ever existed and therefore to decide if this dispute is excluded from the jurisdiction of the *Residential Tenancy Act*.

In considering whether or not a tenancy existed, under the Act, a landlord is defined as the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord who permits occupation of the rental unit under a tenancy agreement.

Similarly a tenancy agreement means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit.

In the circumstances before me, I find that the landlord was the owner of the home in question, but did not authorize or allow the tenants to occupy the rental unit or nor did she ever accept rent from the tenants.

I find that the respondent JB cannot meet the definition of a landlord and that the applicants had no legal relationship with the respondent JB and I therefore find that the parties had not entered into a tenancy agreement, the rights and obligations of which are enforceable under the Residential Tenancy Act.

Conclusion

In light of the above, I decline to find jurisdiction to resolve this dispute. The parties are 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: March 10, 2014

Residential Tenancy Branch

