



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened pursuant to an application regarding recovery of a security deposit. The applicant and the respondent both called in to the teleconference hearing.

Preliminary Issue - Jurisdiction

The applicant identified himself as the tenant and the respondent as the landlord in this matter. In fact, the respondent is himself a tenant at the dispute address. The respondent stated that his landlord gave him verbal consent to rent out a room. The respondent took a security deposit and monthly rent from the applicant, who occupied a room in the apartment and shared common areas with the respondent. The applicant, the respondent and the landlord did not enter into a tenancy agreement to include the applicant as a tenant.

The *Residential Tenancy Act* defines a landlord as follows:

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
 - (i) is entitled to possession of the rental unit, and

(ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;

(d) a former landlord, when the context requires this.

Residential Tenancy Policy Guideline 13 states that 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.

The respondent in this matter does not meet the definition of a landlord, as he is not the agent of the landlord, and he does not have the authority to exercise all of the powers or perform the duties of a landlord under the Act. The applicant is not a tenant of the respondent; rather, he is another occupant, or a roommate.

Based on the above facts, I find I do not have jurisdiction to hear this application.

Conclusion

I decline jurisdiction to hear this matter.

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: April 16, 2014

Residential Tenancy Branch

