



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes MNDC, RPP, OPT, FF

Introduction

This hearing dealt with an Application for Dispute Resolution with the applicant seeking an order of possession; an order to have the respondent return personal possessions; and a monetary order.

The hearing was conducted via teleconference and was attended by the applicant, her agent, and the respondent.

Prior to the hearing the respondent submitted a tenancy agreement between himself and the owner of the property. The parties agree that the respondent lived in the rental unit during the time the applicant lived in the rental unit.

Section 1 of the *Residential Tenancy Act* (*Act*) defines a landlord, in relation to a rental unit, as:

- 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.

The applicant testified that the respondent had told her during the tenancy that he did not have to pay any rent to his landlord as payment for his services as agent for the landlord. She states that he told her that he had to collect rent and security deposits on the landlord's behalf.

While I did verbally indicate, during the hearing, that I was declining jurisdiction I also noted that it was the respondent who had raised the issue of jurisdiction and as such it was the respondent's burden to provide sufficient evidence to establish that the rental arrangement was outside of the jurisdiction of the Act.

During the hearing I ordered the respondent to obtain a letter from his landlord confirming their relationship. Specifically, I have requested a letter that outlines whether or not the respondent acts as the landlord's agent or representative in relation to other potential tenancies in the rental unit.

The letter must indicate whether or not the respondent has the authority to enter into tenancy agreements on behalf of the landlord; collect security deposits and rent on behalf of the landlord; make all repairs to the residential property on behalf of the landlord; change locks in response to failed tenancies on behalf of the landlord; and represent the landlord in dispute resolution proceedings conducted through the Residential Tenancy Branch.

I ordered that this letter be provided by the respondent no later than the end of business Wednesday, July 16, 2014 to me by fax and to the applicant's agent by email. My fax number and the applicant's agent email address were provided to the respondent during the hearing.

I also ordered that the applicant's agent would have until the end of business Monday July 28, 2014 to provide a written response to the respondent's landlord's letter to me by fax and the respondent by email. My fax number and the respondent's email address were provided to the applicant's agent during the hearing.

I have advised both parties that once I have received both of these documents or if I fail to receive the documents I will write a final decision on the issue of jurisdiction after July 28, 2014.

I have advised both parties that should I accept jurisdiction I will provide notice of hearing documents to both parties to reconvene this hearing to proceed with the presentation of the merits of the applicant's claim. I have also advised that if I decline jurisdiction I will provide a final and binding written decision.

The respondent submitted that he did not recognize that this proceeding had jurisdiction to make such an order, because I had verbally indicated that I was declining jurisdiction. I advised the respondent that until I had finalized a written decision declining jurisdiction that I held jurisdiction over the matters in the Application for Dispute Resolution as presented.

Issue(s) to be Decided

The issues to be decided are whether the applicant is entitled to an order of possession; to a monetary order for compensation for a wrongful eviction; to an order requiring the

respondent to return personal possessions and to recover the filing fee from the respondent for the cost of the Application for Dispute Resolution, pursuant to Sections 54, 65, 67, and 72 of the *Residential Tenancy Act (Act)*.

Conclusion

Based on the above, I adjourn the above proceedings until the above noted orders are completed by the parties and I have made a final and binding determination 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: June 30, 2014

Residential Tenancy Branch

