



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bay Street Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNDC; RPP; FF

Introduction

The Applicant applies for compensation for damage or loss under the Act, Regulation or tenancy agreement; an Order that the Respondents return his personal possessions; and to recover the cost of the filing fee from the Respondent.

The parties gave affirmed testimony at the Hearing.

Preliminary Matters

The Respondent BSP's agent (GG) submitted that there was no tenancy agreement between BSP and the Applicant. Therefore, before considering the Application for Dispute Resolution, I must first determine whether or not the Residential Tenancy Act has jurisdiction over this matter.

GG testified that the Respondent SS had a tenancy agreement with the Respondent BSP. GG stated that in April, 2014, SS advised her that she was going overseas for a few months and that the Applicant ES was going to be staying at the rental unit until she returned. GG testified that she told SS that SS would remain responsible for paying the rent and for ES's actions while he was occupying the rental unit.

GG testified that SS was delayed and did not return in September, 2014, as expected. GG stated that ES paid the rent on SS's behalf. GG testified that ES entered into a new tenancy agreement with BSP for a different suite in the rental property (the "New Tenancy Agreement"), but changed his mind. BSP agreed to void the New Tenancy Agreement because the security deposit had not yet been deposited. A copy of the voided New Tenancy Agreement was provided in evidence. In November, 2014, SS returned and ES moved out of the rental unit.

SS stated that she and ES had agreed that he would live in the rental unit until she returned. She pre-paid her rent until the end of August, 2014, which is when she

expected to return. SS testified that at one point, she had thought she might end the tenancy, but that she changed her mind and decided to stay. ES paid the rent for September, October and November, 2014. SS stated that she paid ES back for a portion of November 2014's rent and that she has a receipt signed by ES indicating that she doesn't owe him anything. SS stated that ES's couch is still at the rental unit and that he can pick it up.

ES submitted that he had a tenancy agreement with SS for 4 months, and therefore SS was his landlord. He submitted that he paid rent directly to BSP after September 1, 2014, and that therefore BSP became his landlord after September 1, 2014.

Analysis

The Act provides that a tenant may sublet or assign a tenancy agreement with the landlord's written permission. In this case, there was no evidence that BSP gave SS written permission to sublet the rental unit to ES.

There was no tenancy agreement between ES and BSP for the subject rental unit. I do not find that BSP was ES's landlord.

The Act defines a landlord as:

"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);
- I 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;

[my emphasis added]

I find that SS was not acting on BSP's behalf and therefore was not ES's landlord as defined by the Act. I find that ES was not a tenant of either of the Respondents and was an occupant only.

Conclusion

I find that there was no tenancy agreement between the Applicant and either of the Respondents. Therefore, **I decline to accept jurisdiction of this matter.** The Applicant is free to explore other remedies with respect to his claim.

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 13, 2015

Residential Tenancy Branch

