



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT, MNDC, O, FF

Introduction

This hearing dealt with the applicants' Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by both applicants; both respondents and two witnesses for the landlords.

At the outset of the hearing the applicants clarified that they did not want to move back into the rental unit but that they wanted their possessions back and compensation based on being locked out of the rental unit and for their possessions. I amend their Application to exclude the matter of possession.

Also at the outset of the hearing the tenants stated that the tenancy began as a month to month tenancy in March 2015 for a monthly rent of \$1,100.00 due on the 1st of each month, no security deposit was paid. The male applicant initially indicated they moved in in January but changed it to March and stated the rent was \$1,000.00 but they paid an additional amount of \$100.00 per month then restated the rent agreed upon was \$1,100.00.

The applicants submit that there was no written tenancy agreement and that the respondent did not provide receipts. However, the applicants testified that they did receive one rent receipt from the landlord that they submitted with their application to obtain a housing subsidy from BC Housing.

The respondent PS stated that the applicants moved into the property in May 2015 and that they did so as a short term way to help out friends who were looking for a place to stay while they looked for more permanent accommodation. The respondent PS submits that no tenancy agreement was ever entered into. The applicants confirmed that they had known the respondent PS since high school.

The respondent JS's witness submitted while they are co-owners of the property with PS they were not and have never been a part of a tenancy agreement with the applicants.

There is a general legal principle that places the burden of proving a loss on the person who is claiming compensation for the loss. In regards to this claim for compensation for the failure of a landlord to comply with the *Residential Tenancy Act (Act)* is predicated on whether or not a tenancy existed. As such, as the respondents are making the claim the burden rests with them to establish that one did exist.

When two parties provide equally plausible but differing accounts of an agreement, the party with the burden must provide additional evidence to establish their position. In this case, the respondents dispute ever entering into a tenancy agreement with the tenants and submit that they only provided accommodation as a favour to the applicants.

Despite their submission that they had received a rent receipt that they used to apply for a housing subsidy the applicants have provided no such evidence to this hearing. I find the applicants have failed to provide any evidence at all that a tenancy exists between the two parties.

Issue(s) to be Decided

The issues to be decided are whether the applicants are entitled to a monetary order for compensation for loss of quiet enjoyment and to recover the filing fee from the respondents for the cost of the Application for Dispute Resolution, pursuant to Sections 28, 44, 54, 67, and 72 of the *Act*.

Conclusion

Based on the above, I decline jurisdiction on the matters between these two parties. As a result I make no other findings of fact or law related 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: September 14, 2015

Residential Tenancy Branch

