



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant's application: MNDC, MNSD, FF

Landlord's application: MNR, MNSD, MNDC, FF

Introduction

This was a hearing with respect to applications by the tenants and by the landlord for monetary orders and an order for the return of a security deposit or for its retention by the landlord. The hearing was conducted by conference call. The named tenants and their representative called in and participated in the hearing. The landlord's representative also called in and participated in the hearing.

Issue(s) to be Decided

Are the tenants entitled to a monetary award and if so, in what amount?

Are the tenants entitled to the return of their security deposit?

Background and Evidence

The rental property was described by the parties as a warehouse with an attached one bedroom suite in Langley. As set out in an agreement described as a "Owners Residential Rental Agreement", the rent for the rental property was \$4,000 per month for a 12 month lease commencing January 1, 2016. The tenants claimed in their application that they took possession of the rental unit on January 1, 2016, but complained that it has no running water. The tenants said the landlord did not disclose the issue with respect to the water supply. The tenants applied for the return of a security deposit and one month's rent totalling \$6,000.00.

The landlord's representative testified that the tenants have a licence to grow marijuana and they rented the property for the purpose of growing marijuana in the warehouse

area. He said that there was a one bedroom suite attached to the warehouse. The tenants claimed that they were seeking to end the tenancy and obtain a refund of money paid because there was no running water, and no refrigerator or stove in the rental unit. The tenants and the landlord submitted that the *Residential Tenancy Act* should apply to the tenancy because there was a residential unit included as part of the rental property. The landlord's representative said that the tenants had a licence to grow marijuana for personal use. I was not provided with documents concerning the permit to grow marijuana.

Analysis

The *Residential Tenancy Act* provides by section 4:

What this Act does not apply to

4 This Act does not apply to

- (d) living accommodation included with premises that
 - (i) are primarily occupied for business purposes, and
 - (ii) are rented under a single agreement,

The parties testified that the property was rented with the intention of operating a marijuana grow operation. The fact that there is a document described as a residential rental agreement is not determinative of the issue. The evidence established that the primary purpose of the rental was to operate a marijuana grow operation and any use of the premises as accommodation was secondary to the operation of the marijuana grow operation. The monthly rental of \$4,000.00 far exceeds the ordinary rental rate for a one bedroom suite in a rural area and I find it is indicative of the primary business purpose of the tenancy.

I find that I have no jurisdiction to consider the claims by either tenants or landlord because the living accommodation was included with premises primarily occupied for a business purpose. I dismiss the application for dispute resolution without leave to reapply. The applicants may wish to pursue their claims in another forum.

Conclusion

The claims have been dismissed based on a finding of no 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: August 18, 2016

Residential Tenancy Branch