



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, OLC

Introduction

This hearing was convened by way of conference call in response to an application to cancel a One Month Notice to End Tenancy for cause; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and for an Order for the landlord to comply with the *Act*.

Both parties attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Jurisdictional Issues

The respondent DB raised the issue of the Residential Tenancy Branch having jurisdiction over this matter. DB testified that there was some confusion as to his roommate's status and whether this was a sublet or a roommate situation. DB testified that he is the sole tenant named on the tenancy agreement with his landlord and has lived in the unit since 2011. He has the flexibility to have roommates in the unit but does not have a tenancy agreement with roommates. EB is not listed as a tenant and just occupies a room with shared access to common areas of the unit. DB testified that he is not EB's landlord he is his roommate and EB pays his rent to DB. DB testified that he is responsible for meeting the terms of the tenancy and has full liability regarding the tenancy as he is the only person listed as a tenant on the tenancy agreement. EB filled in an application for rental so that DB could conduct reference and credit checks on him before offering EB a room to rent in the unit. It was decided not to list EB as a co-tenant on the agreement and to just keep the arrangement as a roommate arrangement.

EB testified that he believed he had entered into a tenancy and requested a tenancy agreement numerous times. EB testified that he moved into the unit in March and there were no issues until June. EB testified that he has mostly paid his rent on time to DB. DB never provided EB with a copy of the strata rules and when EB requested an agreement in writing DB said the form EB filled in was enough if EB was accepted as a tenant.

Analysis

I refer the parties to the Residential Tenancy Policy Guidelines #13 which states, in part, that:

A tenant is the person who has signed a tenancy agreement to rent residential premises. If there is no written agreement, the person who made an oral agreement to rent the premises and pay the rent is the tenant. Co-tenants are two or more tenants who rent the same property under the same tenancy agreement. Co-tenants are jointly responsible for meeting the terms of the tenancy agreement. Co-tenants also have equal rights under the tenancy agreement.

"Tenants in common" sharing the same premises or portion of premises may enter into separate tenancy agreements with a landlord. A tenant in common has the same rights and obligations as an ordinary tenant with a separate tenancy, and is not responsible for debts or damages relating to the other tenancy.

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.

It is clear from the evidence provided that EB was not included as a co-tenant or as a "tenant in common" as there is no written tenancy agreement in place to show that a tenancy between EB as a tenant and DB as a landlord exists or that EB had an agreement with the landlord or owner of the unit to rent as a tenant of the landlord or owner. Consequently, I must therefore conclude that EB is an occupant or roommate of this rental unit and therefore has no rights or obligations under the Act.

I must therefore decline jurisdiction in this matter and EB's application is dismissed. The parties should seek remedy through an alternative legal forum.

Conclusion

This application is dismissed in its entirety without leave to reapply.

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 29, 2016

Residential Tenancy Branch