



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD FF

Introduction

This hearing dealt with an application by the Applicant for dispute resolution under the *Residential Tenancy Act* (the “*Act*”) for a monetary order for the cost of emergency repairs, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The applicant, two respondents, and a witness for the respondents appeared at the teleconference hearing and gave affirmed testimony. During the hearing the participants was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Background and Evidence

At the outset of the hearing, the respondents disputed that the applicant was a tenant and affirmed that they do not know her or her last name. The witness for the respondents testified under oath that she identified herself as a “cousin” of the tenant, “Mike”, who the respondents stated abandoned the rental unit and has not lived there for seven months. The applicant claims that she is the sister of “Mike” the tenant and has never had a key to the rental unit. The applicant testified that she would enter the rental unit through the window and changed her testimony during the hearing by first stating she moved into the rental unit in February 2012 and then stated later that she would only stay with Mike occasionally and that she moved into the rental unit “full-time” as of February 2016. The respondents disputed that the applicant had ever been approved to move into the rental unit, was not seen directly by the respondents, and has never paid rent or has rights as a tenant.

The witness, G.K. provided affirmed testimony that they rent one of the two basements suits in the home of the respondents and that they knew the tenant next door to them as

“Mike” and that the applicant “Angela” was not a tenant and was not aware of her paying rent.

The applicant provided no evidence to support that she had ever made an Application for Dispute Resolution to be given a key to the access the rental unit to support she was a tenant with rights under the *Act*. The applicant did not submit any documentary evidence in support that she was a tenant.

Analysis

Based on the documentary evidence and testimony of the participants provided during the hearing, and on the balance of probabilities, I find the following.

Firstly, I find it highly unlikely that if the applicant was a tenant that she would access the rental unit through the window and not demand a key from the landlords to the rental unit as required under the *Act*. Secondly, I note that the tenant provided no evidence that she has ever applied for dispute resolution to demand a key to the rental unit under the *Act*. Thirdly, I prefer the testimony of the respondents and the witness for the respondents that the tenant has never paid rent and is not a tenant. I find the applicant is not credible.

Section 3 of the *Act* states that the *Act* applies to tenancy agreements and I find that there is insufficient evidence before me to support that a tenancy agreement exists between the applicant and the respondents.

Given the above, I find the applicant is not a tenant and therefore has no rights or obligations under the *Act*. As a result, the applicant's application is **dismissed without leave to reapply** as the applicant is not a tenant has no rights to make an application for compensation under the *Act*.

Conclusion

The applicant is not a tenant and as a result, I find the applicant has no rights under the *Act*. Accordingly, this application is dismissed in full without leave to reapply.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 3, 2017

Residential Tenancy Branch