



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 262993

DECISION

Dispute Codes:

MNDC

Introduction:

This hearing was convened in response to an Application for Dispute Resolution in which the Applicants applied for a monetary Order for money owed or compensation for damage or loss.

The male Applicant stated that on October 14, 2016 the Application for Dispute Resolution and the Notice of Hearing were sent to the Respondent, via registered mail. The Respondent acknowledged receipt of these documents.

On March 27, 2017 the Applicant submitted 24 pages of evidence to the Residential Tenancy Branch. The male Applicant stated that this evidence was served to the Respondent, via registered mail, on March 27, 2017. Legal Counsel stated that this evidence was not received by the Respondent. The parties were advised that the Applicants would be directed to re-serve this evidence to the Respondent if I determined I had jurisdiction in this matter.

On March 29, 2017 the Applicant submitted another single page of evidence to the Residential Tenancy Branch. The male Applicant stated that this evidence was served to the Respondent, via registered mail, on March 29, 2017. Legal Counsel stated that this evidence was received by the Respondent and it was accepted as evidence for these proceedings.

The parties were provided with the opportunity to present oral evidence, to make submissions, and to ask questions regarding the issue of jurisdiction.

Issue(s) to be Decided:

Are the Applicants entitled to compensation for building a basement suite?

Background and Evidence:

The Applicants and the Respondent agree that the Applicants moved into the rental unit in July of 2014; that the tenancy agreement was initially a verbal agreement; and that on November of 2015 all three parties signed a tenancy agreement, which neither party submitted in evidence.

The male Applicant stated that:

- when this tenancy began the rent was \$800.00;
- they agreed that once the basement was finished they would pay a monthly payment of \$1,400.00;
- \$1,200.00 of this payment would be for monthly rent and \$200.00 was to be put towards a down payment on the rental unit;
- they did not pay \$1,400.00 for the first two months of the tenancy;
- at a previous dispute resolution proceeding a Residential Tenancy Branch Arbitrator concluded that rent was \$1,200.00 per month;
- the Applicants lived in the upper portion of the rental unit;
- the Respondent hired him to build a suite in the lower portion of the rental unit;
- the Respondent understood that they would not move into the unit unless there was a basement suite the Applicants could rent out;
- the Applicants built a suite in the lower portion of the rental unit;
- the Applicants rented out the lower portion of the rental unit;
- the Applicants moved out of the upper portion of the rental unit on September 25, 2016; and
- the lower portion of the rental unit was still occupied when the Applicants vacated the unit.

The Respondent contends that:

- when this tenancy began the Applicants agreed to pay \$1,400.00 per month;
- \$1,200.00 of this payment was for monthly rent and \$200.00 was to be put in trust for a down payment on the rental unit;
- the Applicants paid \$1,400.00 for the first two months of the tenancy;
- the Applicants would not sign a rent-to-own agreement, as they could not afford the \$1,400.00 monthly payment;
- after the first two months of the tenancy the Applicants began paying the monthly rent of \$1,200.00;
- the Respondent repaid the \$400.00 that had been collected as a down payment by only collecting \$800.00 in rent for the third month of the tenancy;
- at a previous dispute resolution proceeding a Residential Tenancy Branch Arbitrator concluded that rent was \$1,200.00 per month;
- the Respondent understood that the Applicants were going to build a suite in the lower portion of the rental unit;
- he agreed a suite could be built in the lower portion, but he did not agree to pay for the suite;
- the Respondent understood that the Applicants were going to rent out the lower portion of the unit;

- the Respondent understood that the rent from the lower unit would compensate the Applicants for the cost of building the suite;
- the Applicants lived in the upper portion of the rental unit;
- the Applicants rented out the lower portion of the rental unit;
- the Applicants moved out of the upper portion of the rental unit at the end of September of 2016; and
- after the Applicants moved out the Respondent entered into a tenancy agreement with the occupants of the lower portion of the rental unit.

The Applicants are seeking compensation for the cost of building the suite in the lower portion of the unit.

Analysis:

Before considering the merits of the Application for Dispute Resolution I must determine whether I have jurisdiction under the *Residential Tenancy Act (Act)*. The *Act* does not confer authority to consider all types of disputes between landlords and tenants.

Section 62(3) of the *Act* grants me authority to consider any matters related to a dispute that arises out of the tenancy agreement or the *Act*.

I find that this dispute relates to whether or not the parties entered into an employment contract to build a suite in the lower portion of the rental unit. As I do not have jurisdiction over employment contracts, I find that I do not have authority to resolve the issue in dispute at these proceedings.

Conclusion:

As I do not have jurisdiction over this dispute, I dismiss the Application for Dispute Resolution. The Applicants retain the right to seek compensation for their labour in a court of adequate 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: April 20, 2017

Residential Tenancy Branch