



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CORONET REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD MNDC

This hearing was convened pursuant to an Application for Dispute Resolution, received at the Residential Tenancy Branch on June 29, 2017 (the “Application”). The Applicant sought the following relief, pursuant to the *Residential Tenancy Act* (the “Act”):

- a monetary order for money owed or compensation for damage or loss; and
- an order that the Respondents return all or part of the security deposit or pet damage deposit.

The Applicant attended the hearing on her own behalf. C.K. attended the hearing on his own behalf. The corporate Respondent was not represented at the hearing. The Applicant advised that she intended to remove the corporate Respondent as a party but could not do so. There was no evidence before me that the corporate Respondent was served with the Application package in accordance with the *Act*. However, given my findings below, this does not impact the outcome.

According to the Applicant, the Application package was served on C.K. by leaving a copy affixed to his vehicle, which is not an approved method of service under section 89 of the *Act*. C.K. denied receiving it in this manner. Rather, he advised that he contacted the Residential Tenancy Branch and was provided with a copy. However, despite the service issues, C.K. confirmed that he wished to proceed with the hearing.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

Preliminary Issue – Jurisdiction

The Applicant confirmed she rented a room in the basement of the rental property from April 1 to June 11, 2017. The Applicant advised that she paid rent to C.K. in the amount of \$850.00 per month, and provided him with a security deposit in the amount of \$400.00. However, the parties acknowledged that C.K. was a tenant occupying the rental property pursuant to a tenancy agreement with the corporate Respondent, made on February 22, 2015. A copy of the tenancy agreement was submitted into evidence. The Applicant was not a party to the tenancy agreement, and no evidence was adduced to indicate the Applicant was ever added as a party to the tenancy agreement.

Section 1 of the *Act* defines a landlord as follows:

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,*
 - (i) permits occupation of the rental unit under a tenancy agreement, or*
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;*
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);*
- (c) a person, other than a tenant occupying the rental unit, who*
 - (i) is entitled to possession of the rental unit, and*
 - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;*
- (d) a former landlord, when the context requires this.*

[Reproduced as written.]

Further, Policy Guideline #13 states that 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.

Based on the testimony and documentary evidence, and on a balance of probabilities, I find that the Respondent C.K. does not meet the definition of a landlord. He was not the agent of the corporate Respondent, and did not have the authority to exercise all of the powers or perform the duties of a landlord under the *Act*. In addition, C.K. did not meet the definition of a landlord because he was a tenant of the corporate Respondent and was occupying the rental unit. Accordingly, the Applicant is not a tenant of the Respondent C.K.; rather, she was his roommate.

Based on the above findings, I conclude I do not have jurisdiction to hear the Application.

Conclusion

The Application is dismissed for lack of 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: December 14, 2017

Residential Tenancy Branch