



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PLAN A REAL ESTATE SERVICES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S, MNDL-S, FFL

Introduction

On June 15, 2018, the Landlord made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”), seeking to retain the security deposit in partial satisfaction these debts pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

K.H. attended the hearing as an agent for the Landlord, and the Tenant attended the hearing as well. All in attendance provided a solemn affirmation.

The Landlord advised that the Notice of Hearing package and evidence was served to the Tenant on June 18, 2018 by Express Mail as he lived in the United States and registered mail was not an available service. The Tenant confirmed that he provided a forwarding address in the United States on the move-out inspection report. He confirmed receipt of this package, but he did not open it until two days before the hearing. However, he stated that he was prepared to respond to the Landlord’s claims. Based on this, I am satisfied that the Tenant was served with the Notice of Hearing package and evidence.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for compensation?
- Is the Landlord entitled to apply the security deposit towards these debts?
- Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

Both parties agreed that the most current tenancy started on March 1, 2018 for a fixed length of time ending on May 31, 2018, and the tenancy ended on this date when the Tenant moved out. Rent was established at \$1,700.00 per month, due on the first of each month. A security deposit of \$850.00 was also paid.

K.H. advised that the rental unit is rented out as a fully furnished, short term rental for the explicit use of travel or vacation accommodation. She stated that the Tenant originally signed a three-month tenancy agreement on December 1, 2017 and that the most current tenancy was a three-month extension. The Tenant was advised that the rental unit is for travel or vacation accommodation only. She referred to section 1 of the Travel Accommodation Tenancy Agreement (the "Agreement") that was submitted into evidence where it clearly states that the "rental unit will only be occupied for the sole purpose of being utilized for vacation or travel accommodations. Accordingly, the Residential Tenancy Act does not apply to the terms of this tenancy agreement or any changes or additions to these terms."

During the hearing, K.H. was asked why she applied for Dispute Resolution if she believed this type of rental did not apply under the *Act*. She advised that she made this Application as a precautionary measure.

The Tenant advised that he originally wanted to rent for a year, but he was not allowed. He stated that he travelled for work and that he did not have the first tenancy agreement on his person at the time of the hearing; however, he suggested that the terms in the first tenancy agreement that he signed may not have had the same wording as the most current tenancy agreement. K.H. testified that the first tenancy agreement was identical to the most current tenancy agreement.

Analysis

In my view, after hearing testimony from both parties, I find that I am satisfied that the purpose of the rental unit was for short term vacation or travel accommodation only, as stated in the Agreement. As Section 4(e) of the *Act* stipulates, the *Act* does not apply to living accommodation occupied as vacation or travel accommodation. As such, I find that even if the parties intended upon entering into a tenancy agreement as contemplated under Section 1 of the *Act*, the *Act* would not apply to this tenancy. Therefore, I have no jurisdiction to render a decision in this matter.

As the Landlord was not successful in this application, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I decline to hear this matter as I have no jurisdiction to consider this application.

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: September 25, 2018

Residential Tenancy Branch