



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lookout Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RPP, MNDC, MNSD

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of personal property - Section 65;
2. A Monetary Order for compensation - Section 67;
3. An Order for the return of the security deposit - Section 38.

Landlord GP did not attend the hearing. I accept the Tenant’s evidence, supported by the oral evidence of the Tenant’s Witness at the hearing, that the Tenant served the Landlord GP in person at its place of business on May 29, 2019 in accordance with Section 89 of the Act. The Tenant and Respondent LHS (“LHS”) were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matter

Respondent LHS states that they are not the Landlord in this dispute. LHS states that they only acted to assist the Tenant with finding housing. The Tenant states that this is true and that LHS was only helping to find housing but that the employee of LHS was acting as the manager of the housing. The Tenant states that the employee helped fill out the rental application. The Tenant states that while the rent was paid to Landlord GP the Tenant does not know who paid the rent on the Tenant’s behalf. LHS states that they have never paid rent for the Tenant.

Section 2(1) of the Act provides that the Act applies to tenancy agreements, rental units and other residential property. Section 1 of the Act defines “landlord”, in relation to a rental unit, as including 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;

Given the evidence of both the Tenant and LHS that LHS was only acting to assist the Tenant with obtaining rental housing and that rent monies were paid to Landlord GP, I find that LHS is not a landlord within the meaning of the Act and that the Act therefore does not apply to any dispute the Tenant may have with LHS. LHS was allowed to leave the hearing.

Issue(s) to be Decided

Is the Tenant entitled to return of its security deposit?

Is the Tenant entitled to return of its belongings or compensation?

Is the Tenant entitled to the return of rent?

Background and Evidence

There is no written tenancy agreement. The tenancy started in June 2017 and ended around August 4, 2017. Rent of \$450.00 was payable on the first day of each month. The Landlord collected \$225.00 as a security deposit.

The Tenant states that no forwarding address has been provided to the Landlord. The Tenant claims return of double the security deposit.

The Tenant states that the Tenant was informed that LHS removed his belongings from the rental unit and have the belongings in their storage. The Tenant states that it is unknown how LHS obtained the belongings and it is unknown if Landlord GP allowed LHS to remove the belongings. The Tenant claims return of its belongings or compensation of \$15,000.00.

The Tenant states that on or about August 4, 2017 the Tenant left the rental unit for a couple of nights and was told a few days later by LHS that the unit locks were changed and that the Tenant could not return, or the police would be called. Tenant would not return. The Tenant states that the Landlord accepted rent monies for August and September 2019 and the Tenant claims return of this rent.

At 11:25 the Tenant suddenly left the conference call hearing. At the time the Tenant had not appeared to have finished its submissions, and as the disconnection may have been by accident the conference call stayed open for another 30 minutes. The Tenant did not call back into the hearing and the conference call was then ended.

Analysis

Section 39 of the Act provides that, despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

(a)the landlord may keep the security deposit or the pet damage deposit, or both, and

(b)the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

As it has been over a year since the end of the tenancy and based on the Tenant's evidence that no forwarding address has been provided to the Landlord I find that the Tenant's right to return of the security deposit is extinguished. I therefore dismiss the claim for return of the security deposit.

As the Tenant's claim for either the return of its belongings or compensation for the belongings are claims against LHS, as there is no jurisdiction under the Act for this dispute, as set out above, and as there is no evidence that Landlord GP is holding or removed the Tenant's belongings I dismiss the claims for return of the belongings or compensation.

As the Tenant left the conference call without apparently completing its submissions in relation to the claim for the return of rent, I dismiss this claim with leave to reapply as against Landlord GP. Leave to re-apply is not an extension of any applicable limitation period.

Conclusion

The Tenant's claims in the application are dismissed except for the claim for return of rental monies which is dismissed with 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 Act.

Dated: July 08, 2019

Residential Tenancy Branch