Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   MNDCT MNSD FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (application) by the tenant seeking remedy under the *Residential Tenancy Act* (the Act). The tenant applied for a monetary claim of $1,150.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for the return of their security deposit and/or pet damage deposit, and to recover the cost of the filing fee.

The tenant and respondent KW (respondent) attended the teleconference hearing and gave affirmed testimony. During the hearing both parties were given the opportunity to provide their evidence orally and respond to the testimony of the other party. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The respondent stated that they are not the landlord of the tenant and that they have been incorrectly named in this application. As a result, I must determine if I have jurisdiction to hear this dispute.

Preliminary and Procedural Matters

The first issue that I must decide is whether the Act has jurisdiction over the parties in order to proceed with the application.

The applicant confirmed they are a tenant and have paid rent to landlord HN (landlord) in the past. The respondent stated that HN is the landlord and that that is who they pay rent to also. The respondent's position is that they are also a tenant in the building and pay rent to HN. The respondent provided the email address of HN and their mailing address during the hearing. The tenant did not dispute that HN was their landlord.

Analysis

Based on the above, and on a balance of probabilities, I find the following.

Section 1 of the Act applies and defines "landlord" as the following:

"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, <u>other than a tenant occupying the rental unit</u>, who**

>**(i) is entitled to possession of the rental unit, and**

>**(ii) exercises any of the rights of a respondent under a tenancy agreement or this Act in relation to the rental unit;**

>(d) a former landlord, when the context requires this;

>[Emphasis added]

Based on the above, I find the tenant has provided insufficient evidence to support that the respondent is the landlord. As a result, I find that KW is a tenant in common that also rents a room in the rental building. Therefore, I find the tenant has incorrectly named a tenant in common as a landlord. I also find there is insufficient evidence that the tenant acts as an agent for the landlord.

As a result, I the tenant has filed this claim against a tenant in common, which the Act does not permit. As this dispute is between tenants in common, I find that I do not have jurisdiction to hear this dispute under the Act.

The tenant is at liberty to submit a new application against, HN, the landlord.

I do not grant the filing fee as this matter was not successful.

Conclusion

I decline to hear the applicant's application due to lack of jurisdiction under the Act.

The tenant is at liberty to submit an application naming the landlord, HN, but is unable to apply against a tenant in common under the Act as the Act does not apply to tenant versus tenant disputes.

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: May 15, 2020

Residential Tenancy Branch