



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DOMUS MANAGEMENT LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF

Introduction

On May 25, 2019, the Tenants applied for dispute resolution under the *Residential Tenancy Act* (“the Act”) seeking a monetary order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement.

The matter was scheduled for a teleconference hearing. The Landlord’s agent (“the Landlord”) and Tenants attended the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

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.

Issue to be Decided

- is the Tenant entitled to money owed or compensation for damage or loss under the Act, Regulation or tenancy agreement?

Background and Evidence

The Tenants and Landlord testified that the Tenant was interested in a rental unit at the dispute address and on January 28, 2020 the Tenant filled out an application for tenancy.

The parties provided testimony agreeing that the start of the tenancy was to begin on February 1, 2020 and rent was to be \$1,875.00 per month.

The Tenant testified that he signed the application for tenancy and paid a \$500.00 application fee to the Landlord but did not sign a tenancy agreement on January 28, 2020 and he believed he was under no obligation sign a tenancy agreement at that time. The Tenant testified that he did not pay the Landlord a security deposit or rent on January 28, 2020.

The Tenant testified that he met with the Landlord the next day on January 29, 2020 and informed the Landlord that he did not want to proceed with a tenancy agreement. The Tenant testified that the Landlord informed him that he was obligated to pay the Landlord the amount of one month rent. The Tenant did not agree; but he testified that he was confused so he left and went to his bank and got a bank draft for \$1,875.00 and returned to see the Landlord. The Tenant testified that on January 29, 2019, after informing the Landlord that he did not want to proceed with a tenancy agreement, he paid the Landlord the amount of \$1,875.00.

The Tenant submitted that he did not enter into a tenancy agreement and he is seeking to recover the amount of \$1,875.00.

In reply, the Landlord testified that on January 26, 2020 the Tenant came to view the rental unit. On January 28, 2020 the Tenant met with the Landlord and completed the application for tenancy. The Landlord testified that he later contacted the Tenant and informed him that he is welcome to come and sign the tenancy contract. The Landlord testified that the Tenant informed him that he did not want to take the rental unit and the Tenant did not sign the tenancy agreement.

The Landlord testified that he informed the Tenant that signing the tenancy application makes the Tenant liable to pay one month of rent. The Landlord confirmed that the Tenant then went to the bank and returned with a bank draft in the amount of \$1,875.00.

The Landlord submitted that the tenancy application clearly states that the Tenant is liable to pay.

Analysis

Based on the above, the testimony and evidence of the parties, and on a balance of probabilities, I find as follows:

The basic components of a contract are as follows: an offer; acceptance; consideration; and capacity.

I find that an application for tenancy is not a tenancy agreement. An application allows the Landlord to assess the suitability of an applicant and decide whether or not to accept the applicant as a Tenant. A contract is not formed until both parties accept the offer of the contract and consideration such as a payment or exchange of contractual promise is made.

I find that when the Landlord contacted the Tenant to inform him that the application for tenancy was approved, the Tenant informed the Landlord that he had changed his mind and did not wish to accept. I find that the payment of \$1,875.00 was not acceptance and/or consideration by the parties. The payment to the Landlord was made after the Tenant declined to accept the offer. The Tenant made payment because the Landlord informed the Tenant that he was obligated by the terms of the tenancy application.

I find that the parties did not enter into a tenancy agreement. A tenancy agreement would require the Tenant to pay the rent owing under the agreement and provide proper written notice to end the tenancy and would also make the Tenant liable for any loss of rent suffered by the Landlord.

Section 2 of the Act provides that the Act applies to tenancy agreements, rental units and other residential property.

Section 16 of the Act provides that the rights and obligations of a Landlord and Tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the Tenant ever occupies the rental unit.

Since I find that the Tenant and Landlord did not enter into a tenancy agreement, I find that I do not have jurisdiction to resolve this dispute.

The Tenant's application for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement is dismissed.

Conclusion

The Landlord and Tenant did not enter into a tenancy agreement. I decline jurisdiction to resolve the dispute.

Tenant's application is dismissed in its entirety.

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: July 27, 2020

Residential Tenancy Branch