



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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Introduction

This hearing dealt with an Application for Dispute Resolution for an Order to have the Landlord comply with the Act, and Orders for the Applicant to obtain an Order of Possession, allow access to the unit or site, allows the tenant to sublet and for other reasons.

The parties appeared at the teleconference hearing, acknowledged receipt of hearing documents and evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issue(s) to be Decided

1. Is the Applicant a Tenant?
2. If not, does the Applicant have rights under the *Residential Tenancy Act*?
3. If yes, has he met the burden of proof to obtain an Order of Possession for the rental unit?

Background and Evidence

The Applicant testified he entered into a written tenancy agreement, as supported by his evidence, with his landlord who is a person who is not named in this dispute. His landlord is a tenant of the Respondent to this dispute. He has occupied the rental unit in question since February 1, 2011 with another occupant.

On April 30, 2011 the Applicant e-mailed the Respondent's Agent advising him that he wanted to enter into a tenancy agreement with him. His request was refused without even having an opportunity to apply. He stated the main issue here is he was refused the opportunity to apply to become a tenant. As of May 2, 2011 the Agent began showing the unit to prospective tenants.

The Respondent Owner testified the Applicant is not their tenant. Their tenant provided notice to end his tenancy on April 30, 2011, as per the evidence they provided. As of May 4, 2011 they entered into a written tenancy agreement with their new tenant;

however the applicant continued to over hold the unit so their new tenant is currently occupying their office.

The Agent testified that he had agreed with the tenant to allow him to have guests for a few months while he was out of town. They never provided him permission to sublet and he has never seen the Applicant's tenancy agreement until he received his evidence package. He said the Applicant has never come to his office to apply for a tenancy and when their tenant gave notice to end his tenancy they began showing the unit as soon as possible.

Analysis

I have carefully considered the aforementioned and the documentary evidence before me which included, among other things, copies of the Applicant's tenancy agreement with his landlord who is the Tenant to the Respondent to this dispute, a copy of the tenancy agreement between the Respondent and their new tenant, and copies of various e-mails between the parties.

The *Residential Tenancy Policy Guideline #13* defines occupants as: "When 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".

Based on the aforementioned I find the Applicant to this dispute to be an Occupant and therefore has no rights under the *Residential Tenancy Act* or claim to the rental unit. Therefore I dismiss the application, without leave to reapply.

Conclusion

I HEREBY DISMISS the application, without 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 *Residential Tenancy Act*.

Dated: June 27, 2011.

Residential Tenancy Branch

