



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC

Introduction

The Applicant seeks return of a security deposit paid to the Respondent; and compensation for damage or loss under the Act, regulation tenancy agreement.

The Applicant gave affirmed testimony at the Hearing.

The Applicant testified that she mailed the Notice of Hearing documents and copies of her documentary evidence to the Respondent at the rental unit on November 2, 2012. The Applicant provided the tracking number for the registered documents.

I find that the Respondent was duly served pursuant to the provisions of Section 89 (10(c) of the Act. Documents served in this manner are deemed to be received 5 days after mailing. Despite being served with the documents, the Respondent did not sign into the conference and the Hearing continued in her absence.

Preliminary Matter

At the outset of the Hearing, the Applicant testified that she and the Respondent lived together at the rental unit, along with another tenant. She stated that the Respondent's landlord did not recognise the Applicant as his tenant, but that she had paid a security deposit to the Respondent in the amount of \$200.00 on September 26, 2012.

Therefore, the Applicant submitted that the Respondent is her landlord. The Applicant moved out of the rental unit and now seeks return of the security deposit.

The Applicant provided a copy of a receipt that the Respondent gave her for the security deposit, which is purportedly signed by the Respondent's landlord. However, the Respondent's landlord told the Applicant that he had not signed the receipt and that he did not accept her as his tenant. The Tenant provided a copy of a tenancy agreement, which has her name scribbled out on it. The Respondent and the Respondent's landlord signed the tenancy agreement and the signature of the Respondent's landlord does not resemble the signature on the receipt for the security deposit. The Applicant has not named the Respondent's landlord as "landlord" on her Application because she accepts his position that he is not her landlord.

Analysis

The dispute resolution process considers applications between tenants and landlords as they relate to tenancy agreements and rights, obligations and prohibitions under the *Residential Tenancy Act* (the “Act”).

Section 1 of the Act defines “tenancy agreement” as follows:

“tenancy agreement” means an agreement, whether written or oral, express or implied, between a **landlord and a tenant** respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;

(emphasis added)

Section 1 of the Act defines “landlord” as follows:

“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, 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;

(emphasis added)

Based on the Applicant’s testimony, I find that the Respondent was not acting on behalf of her landlord when she accepted the \$200.00 security deposit. The Respondent is a tenant who occupies the rental unit. Therefore, I find that the Respondent was not the Applicant’s “landlord” as defined by the Act. I find that the Applicant was merely an occupant of the rental unit and that therefore the Act has no jurisdiction over this matter.

Conclusion

I decline jurisdiction in this matter as I find that the Act does not apply.

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: February 07, 2013

Residential Tenancy Branch

