



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the applicant's application seeking a monetary award in the amount of double the security deposit paid pursuant to section 38 of the *Residential Tenancy Act* (the "Act").

Both parties attended the hearing and were given a full opportunity to give affirmed testimony, present evidence, call witnesses and cross-examine one another.

As both parties were present service was confirmed. Based on the undisputed testimony of the parties I find that the respondent was served with the applicant's application in accordance with section 89 of the *Act*.

Issue(s) to be Decided

Is the applicant entitled to a monetary award in the amount of double the security deposit?

Background and Evidence

The parties gave the following evidence. This rental unit is a single room in a detached house. There are six other occupants of the building who share bathroom and kitchen facilities. The respondent does not reside at the rental building. The applicant was uncertain when he moved into the building but believes it was sometime in September, 2017.

The parties said that monthly rent was \$820.00. The applicant only pays \$375.00 of the monthly rent as a housing subsidy is paid directly to the respondent by a government

agency for the balance. A deposit of \$412.00 was paid and is still held by the respondent.

The respondent said that candidates for occupancy in the building come from a local non-profit organization that assists in empowering individuals to achieve personal independence. The respondent said that on average an occupant will reside in the building for up to one year before moving on to more independent housing. The respondent said that the life skills and resource programs are operated by the non-profit organization that supports the occupants.

Analysis

Analysis - Jurisdictional Question

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of my findings around each are set out below.

Section 4(f) of the *Act* provides that the *Act* does not apply to living accommodations provided for transitional housing. The *Residential Tenancy Regulation* defines transitional housing in section 1(2) as accommodations that are provided:

- (a) on a temporary basis,
- (b) by a person or organization that receives funding from a local government or the government of British Columbia or of Canada for the purpose of providing that accommodation, and
- (c) together with programs intended to assist tenants to become better able to live independently.

I find that based on the testimony of the parties the living arrangement falls under the definition of transitional housing and therefore outside of the jurisdiction of the Residential Tenancy Branch.

The parties described the occupancy as temporary housing. While there is no evidence that there is a set time limit, it is clear that occupancy in the rental building is only meant to be a short-term arrangement. I accept the undisputed testimony of the parties that the occupant does not pay full rent as the government departments provide funds directly to the respondent for the balance of monthly rent. I also accept the testimony of the parties that the occupants of the building also receive support and assistance

through the local non-profit organization with the aim of developing life skills to live independently.

Based on the evidence I find that the living arrangement falls under the definition of transitional housing and therefore I have no jurisdiction to make a finding on the application.

I find that I do not have jurisdiction to make a decision on the application before me and the application is dismissed in its entirety.

Conclusion

I find that I do not have jurisdiction in this matter and I dismiss the tenant's application for dispute resolution 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: July 3, 2018

Residential Tenancy Branch