



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes: O

Introduction

This hearing was convened in response to an application for clarification around whether the circumstances of the dispute fall within the jurisdiction of the Act. It is not an application to dispute a notice to end tenancy for unpaid rent or utilities, nor is it an application for an order of possession. Both parties either participated or were represented in the hearing and gave affirmed testimony.

Issue to be decided

- Whether the circumstances of the dispute fall within the jurisdiction of the Act

Background and Evidence

By way of her signature on a written “program agreement,” the applicant became a resident and entered into participation in the “program” on or about September 3 or 4, 2010. A “shelter information” form documents the applicant’s responsibility to pay a residency fee of \$750.00 per month, in addition to responsibility to pay a portion of the “security deposit” in the amount of \$187.50. It appears that the “residency fee” was due and payable in advance on the first day of each month.

Arising from a portion of the residency fee which was unpaid when due on October 1, 2010 in the amount of \$386.14, the respondent issued a “10 day notice to end tenancy for unpaid rent or utilities” dated October 5, 2010. The notice was personally served on the applicant on that same date. The respondent testified that the full amount of the overdue portion was not subsequently paid. Ultimately, the applicant vacated the unit on October 28, 2010.

The respondent takes the position that the circumstances of the dispute do not fall within the jurisdiction of the Act. The respondent testified that use of the 10 day notice, for example, simply reflects a requirement on the part of the ministry providing monthly income assistance for an “eviction notice,” and that use of the notice facilitates the ministry’s issuance of a crisis grant for shelter.

The applicant’s advocate, on the other hand, takes the position that the respondent’s use of the 10 day notice, as well as reference to certain terminology and provisions in the “program agreement,” support the applicant’s view that the circumstances of the dispute fall within the jurisdiction of the Act; terms referred to include, but are not necessarily limited to, “occupancy rights,” “monthly base residence fee,” “security deposit,” “24 hours’ written notice, to enter unit for the purpose of inspection..” etc.

Further, the applicant’s advocate argues that the nature and function of the program in its present location do not comply with local government zoning, that the level of rent is in excess of what is appropriate for “low income housing,” and so forth.

Analysis

While I have turned my mind to all aspects of the information presented, not all particulars of the arguments or submissions are reproduced here.

Section 4 of the Act speaks to **What this Act does not apply to**, and provides in part as follows:

4 This Act does not apply to

(f) living accommodation provided for emergency shelter or transitional housing,

(g) living accommodation

(vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,...

Under the heading “program description” in the “program agreement” entered into by the parties, it is stated as follows:

The focus of the [housing program] is to provide safe and stable housing with community supports as necessary. The program will involve a variety of components that may include the following activities:

- Development of life skills (ie: cooking, cleaning, budgeting, shopping, accommodation search, landlord tenant relationships, conflict resolution, etc.)
- Referral to appropriate community resources to address issues related to alcohol and drug use, mental health concerns and other identified circumstances
- Employment goals, including active employment or involvement in an employment program
- Addressing untreated health conditions
- Connection to family and natural resources
- Involvement in recreational, creative, cultural and spiritual pursuits
- Participation in a [resident council] that assists in maintaining the property and making recommendations about programs and residency requirements

By signing this agreement, the Participant agrees to enter into and participate in the program. As part of [the program], the Participant will agree to abide by the rules of residency at [the program]. Alcohol and drug use is not permitted at [the program]. All participants must sign the Crime Free Housing Addendum to this Agreement.

Based on the documentary evidence and testimony of the parties, I am satisfied that the circumstances of the dispute do not fall within the jurisdiction of the Act. Specifically, I find that the “program” falls within the purview of provisions set out in section 4 of the

Act which define certain “living accommodation,” as above, in relation to which the Act does not apply.

Conclusion

The circumstances of this dispute do not fall within the jurisdiction of the Act.

DATE: November 23, 2010

Dispute Resolution Officer