



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **Decision**

### **Dispute Codes:**

OPR

### **Introduction**

This Dispute Resolution hearing was convened to deal with an application by the landlord for an Order of Possession based on a Ten-Day Notice to End Tenancy for Unpaid Rent issued on September 24, 2010.

Despite being served with the Notice of Hearing by registered mail sent on September 15, 2010, neither tenant appeared.

### **Preliminary Matter**

At the outset of the hearing the landlord testified that there was no tenancy agreement with the respondents at present and there never had been a landlord-tenant relationship of any kind. The landlord testified that the current occupants of the rental unit were previously farm-workers employed to work the land who, approximately 10 years ago, chose to move into a home on the property without a rental contract. The landlord testified that since this occurred, attempts made by the landlord to vacate the house have been met with verbal threats by the occupants.

Section 6 of the Act states that the rights, obligations and prohibitions established under the Act are enforceable between a landlord and tenant under a tenancy agreement and that a landlord or tenant may make an application for dispute resolution if the landlord and tenant cannot resolve a dispute referred to in section 58 (1) of the Act. This section provides that a person may apply for dispute resolution in respect of the rights, obligations and prohibitions under the Act or terms of a tenancy agreement that: (i) are required or prohibited under the Act, or (ii) relate to the tenant's use, occupation or maintenance of the rental unit, or common areas or services or facilities.

The Act defines "*tenancy*" as a tenant's right to possession of a rental unit under a tenancy agreement . Under the Act "*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. The Act defines "*rental unit*" as living accommodation rented or intended to be rented to a tenant and defines "*landlord*", to include 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;

In this instance, I find that the contract between the applicant and respondent, if any, does not meet the requisite criteria to be considered that of landlord and tenant.

Given the above, I find there exists no genuine tenancy agreement between these two parties. Although the respondent has apparently occupied the premises in question and continues to do so, I find that the occupant is not a tenant and therefore has no tenancy rights under the Act.

Having found that no tenancy exists as defined by the Act, the relationship and matters under dispute do not fall under the authority of the Residential Tenancy Act. Therefore the application cannot proceed and must be dismissed.

I hereby dismiss the application without leave to reapply. The landlord is at liberty to seek remedy in another legal forum.

Dated: November 2010.

---

Dispute Resolution Officer