

DECISION

Dispute Codes:

ET

Introduction

This is the Landlord's application for an early end to tenancy and an Order of Possession.

The parties gave affirmed testimony at the Hearing.

Preliminary Matters

At the outset of the Hearing, the Tenant advised that the Landlord named on the Application for Dispute Resolution filed July 4, 2011 (the "Applicant") is not her landlord.

The Applicant testified that she is the owner of the rental property. She testified that she had been absent from the rental property for 5 years, but that since May, 2011, the Tenant's rent has been paid directly to the Applicant from social assistance.

The Tenant testified that she did not give the Ministry permission to pay her rent directly to the Applicant and that her landlord is actually the Applicant's estranged husband.

The Tenant's witness is the Applicant's estranged husband. He testified that he has a verbal tenancy agreement with the Tenant. He stated that the Applicant was trying to take over the rental property and had talked other tenants into signing rental agreements with her. The witness testified that he is owner of the rental property. The witness does not wish to end the tenancy.

The Applicant testified that she was sole owner and that the witness was only acting as her agent for the past five years. She testified that she fired the witness in May, 2011. The Applicant stated that there is a Supreme Court divorce action in process and that a hearing is scheduled for July 18, 2011, which will determine division of assets including the rental property.

Analysis

Section 58(1) of the Residential Tenancy Act provides that a person may make an Application for Dispute Resolution in relation to a dispute with the person's landlord or tenant. The Act defines Landlord as:

"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;

I find that the Applicant provided insufficient evidence that she is a landlord as defined by the Act. The Applicant did not provide a copy of a state of title certificate indicating that she is an owner of the property. There is no written tenancy agreement identifying the landlord. The Tenant testified that she has an oral tenancy agreement with the Applicant's estranged husband, but not the Applicant.

Section 58(2)(c) of the Act provides that the Director must determine disputes filed under Section 58(1) of the Act unless the dispute is linked substantially to a matter that is before the Supreme Court. I do not find that the dispute is linked substantially to a matter that is before the Supreme Court. The Supreme Court may determine the division of the marital assets, but will not determine who the landlord was at the time the Application was filed.

For the reasons indicated above, I dismiss the Application.

Conclusion

The Application filed July 4, 2011, is dismissed.

Dated: July 15, 2011.

Residential Tenancy Branch