

DECISION

Dispute Codes: CNR

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for an order to set aside the notice to end tenancy for unpaid rent. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Upon consideration of the documentary evidence, a preliminary issue was raised and repeated at the hearing. The tenant was of the position that I did not have jurisdiction to resolve this dispute.

Issues to be decided

Does the *Residential Tenancy Act* apply to the parties and do I have jurisdiction to resolve this dispute? Is the relationship between the two parties that of a landlord and tenant? If so does the landlord have reason to end the tenancy or should the notice to end tenancy be set aside and the tenancy be allowed to continue?

Background and Evidence

The applicant and the female respondent are sisters. The property in dispute was the family home that was purchased by the respondent from their parents, in 2005. The sale of the property was completed based on certain terms. One of the terms was that the parents would be entitled to live on the property during their lifetime. Upon the passing of the last surviving parent, the applicant continues to reside on the property and the respondent is demanding rent.

Implementing the other terms of the sale has resulted in a dispute between the two parties and this matter is the subject of an ongoing claim that is currently in litigation.

Analysis

Section 27 of *Residential Tenancy Policy Guideline* addresses the jurisdiction of the *Residential Tenancy Act*. This section states that if a dispute is linked substantially to a Supreme Court action, then the arbitrator may decline jurisdiction

Based on the sworn testimony of both parties and the documentary evidence filed by both parties, I find that the property in question is matter of an ongoing claim currently in litigation. Therefore I find that I do not have jurisdiction in this matter.

Conclusion

I do not find that the *Residential Tenancy Act* applies to this dispute and I decline jurisdiction.

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: December 16, 2011.

Residential Tenancy Branch