



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RPP and FF

Introduction

This application was brought by the tenant seeking a Monetary Order and/or an Order for return of personal property, an Order that the landlord comply with the legislation and/or rental agreement, and recovery of the filing fee for this proceeding.

As a preliminary matter the landlord had provided a written submission on February 16, 2012 requesting an adjournment and providing documentary evidence that she is currently receiving home treatment for complications following major surgery on January 30, 2012.

While I found that an adjournment was clearly appropriate, the parties indulged a brief exploration on the question of jurisdiction to determine if the adjournment would be warranted.

The question arose from the fact that the tenant's application specified the "barn" as the rental unit and his claim is based upon return of or compensation for numerous varieties of plantings he valued at \$24,492.

The tenant stated he believe the agreement was a residential tenancy because he had stayed in the barn four nights a week and returned to his home for three nights a week. The landlord stated the agreement for was for use of a field and she had urged the tenant not to overnight in the barn as there were no sanitary facilities in it.

Section 4 of the Act sets out types of accommodations that are excluded from the jurisdiction of the Act, including:

- d) living accommodation included with premises that
 - (i) are primarily occupied for business purposes, and
 - (ii) are rented under a single agreement,

I find that the agreement between the parties does not constitute a residential tenancy within the meaning of the *Act*, and that even if it did, its primary purpose was to accommodate the horticultural activities of the applicant.

For that reason, the application is dismissed without leave to reapply for want of 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: February 21, 2012.

Residential Tenancy Branch