



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR

Introduction

This hearing was convened in response to applications by the tenant and the landlord.

The tenant's application is seeking orders as follows:

1. Cancel a notice to end tenancy; and
2. Recover the filing fee from the landlord.

The landlord's application is seeking orders as follows:

1. An order of possession for unpaid rent;
2. A monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the filing fee from the tenant.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The first issue that I must decide is whether the Act has jurisdiction over the parties in order to proceed with the applications.

The parties agreed that the legal owner of the property and the respondent (RS) were in a relationship and shared the living accommodation. The respondent (RS) agreed that he is not a tenant under the Act.

Section 4 of the Residential Tenancy Act States

4 This Act does not apply to

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

In this case, the owner allowed another person to move into the premises and shared the living accommodation.

As this is a dispute between an owner and an occupant and not a dispute between a landlord and tenant. I find that there is no jurisdiction for either party to proceed with their application and I dismiss both applications without leave to reapply.

Conclusion

I order that both applications are dismissed without leave to reapply due to the lack of jurisdiction under the Act.

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: May 28, 2012.

Residential Tenancy Branch