



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, OPT

Introduction

This hearing dealt with the tenant/applicant's (hereafter referred to as "applicant") application for dispute resolution under the Residential Tenancy Act (the "Act") seeking the landlord/respondent's (hereafter referred to as "respondent") compliance with the Act and seeking an order of possession for the home.

The applicant, the respondent and the owner of the rental unit/home (hereafter referred to as "home") and his agent appeared at the hearing.

Due to the information contained in the applicant's application and the owner's evidence, at the outset of the hearing the issue of jurisdiction under the Residential Tenancy Act was explored as to the determination of whether or not the applicant and respondent had entered into a residential tenancy agreement.

Issue(s) to be Decided

1. Does the *Residential Tenancy Act* apply to this dispute and do I have jurisdiction to resolve this dispute?
2. Has the applicant established an entitlement to an order of possession and the landlord's compliance with the Act?

Background and Evidence

The applicant in her application stated that she was renting the home from the owner's son; however the owner was asking her to leave as he was selling the home, according to the application.

The applicant stated that she paid rent to the respondent.

The respondent stated that the applicant was his roommate and confirmed that he did not own the home.

In his evidence, the owner supplied proof of his ownership. The owner submitted that he had allowed his son to live in the home and that he was not aware that his son had allowed someone else to live in the home. The owner submitted that due to family issues, it was necessary that he sell the home, as he is now in the process of so doing.

The owner submitted that he did not give permission to the applicant to live in the home and that he did not have a landlord/tenant relationship with either the applicant or the respondent.

Analysis

In order for the applicant to succeed in this application, the applicant must show that the *Residential Tenancy Act* applies. In order to find the Act applies, I must be satisfied that the parties entered into a tenancy and that the parties had a landlord and tenant relationship.

I accept the testimony of the lawful owner and his agent that the applicant was never a tenant and that there was no landlord/tenant relationship between the owner and the applicant. There was no dispute that the respondent was not acting as an agent for the owner in renting out the home.

In light of the above, I decline to find jurisdiction to resolve this dispute. The parties are at liberty to seek the appropriate legal remedy to this dispute.

Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute and I have declined 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: May 30, 2012.

Residential Tenancy Branch