



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord and several agents for the tenant.

At the outset of the hearing, the tenant's agent submitted that the named tenant was a company that provided residential support services for clients who were in drug or alcohol recovery. She further stated that she had not resided in the rental unit and that none of her staff did but rather several clients would live there at any given time.

The landlord noted that she had filed a previous Application and received a decision that accepted jurisdiction on the tenancy and granted her a monetary order. I have reviewed the previous decision and note that the previous Dispute Resolution Officer did accept jurisdiction, however I can only rely on the testimony and evidence provided in this hearing to determine whether or not I have jurisdiction in these matters.

Residential Tenancy Policy Guideline #14 states that commercial tenancies are usually those associated with a business operation. The Guideline goes on to say an arbitrator will consider what the predominant purpose of the use of the premises is. Some factors include: relative square footage of the business compared to the residential use and employee and client presence at the premises.

From the tenant's testimony the tenant herself did not reside on the property nor did her staff. Staff attended the unit to provide support services to clients who resided in the rental unit. As such, I find the predominant purpose for the use of the premises was to run the business of providing a recovery treatment home.

Section 4(d)(i) of the *Residential Tenancy Act (Act)* states the Act does not apply to living accommodation included with premises that are primarily occupied for business purposes. From the evidence and testimony before me I find the premises were primarily occupied for business purposes.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for damage to the rental unit; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Act*.

Conclusion

Based on the above, I find the tenancy was a commercial tenancy and I therefore 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: September 26, 2012.

Residential Tenancy Branch