



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes AAT, AS, DRI, FF, LRE, MNDC, MNR, MNSD, OPT, PSF, RP, RPP, & RR

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

The applicant stated that he did not receive the respondents evidence within the timeframe required under the Residential Tenancy Act and therefore I offered an adjournment to allow him more time to review the information, however the applicant stated that he would rather proceed with the hearing today.

All testimony was taken under affirmation.

Issue(s) to be Decided

Prior to proceeding with any hearing I dealt with the issue of jurisdiction.

Background and Evidence

The respondent argued that:

- This property was rented primarily for commercial purposes for the tenant's trucking business, and although it has a residential unit attached, it was not rented mainly for residential purposes.
- The property has a large shop in which the tenant keeps his tools which the tenant uses for working on his trucks.
- The property is also used for parking the tenant's trucks for his moving company.
- They therefore do not believe that the Residential Tenancy Act has jurisdiction over this matter pursuant to section 4(d) of the Act.

The respondent is therefore asking that I declined jurisdiction.

The applicant argued that:

- When I rented this property I only had one moving truck and a bus that I parked on the property, and the main purpose of renting the property was residential.
- Even everything in my shop are personal tools.
- This is not a commercial tenancy, and I believe the Residential Tenancy Act has jurisdiction over this matter.

The applicant is therefore asking that I accept jurisdiction.

In response to the applicants arguments the respondents stated:

- The tenants moving company and all his tools are all under his personal name as he runs the company under his personal name; however this property was still rented to him primarily for commercial purposes, with the residence attached.

Analysis

The applicant has admitted that he has run his trucking business from this property and although he argues that the main rental was residential, it is my finding “on the balance of probabilities”, that this property was rented primarily for commercial purposes.

Is therefore my finding, pursuant to section 4(d) of the Residential Tenancy Residential Tenancy Act, that the Act does not apply to this tenancy.

Conclusion

I decline jurisdiction over this matter, and the parties will have to resolve this issue through the courts.

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 01, 2013

Residential Tenancy Branch

