



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was to deal with an application by the landlord for an order of possession and a monetary order.

Issue(s) to be Decided

Does the Residential Tenancy Branch have jurisdiction over this dispute?

Background and Evidence

The landlord rented this unit from the owner. She then rented a room and some shared space to the tenant.

Analysis

The Residential Tenancy Branch has been created by statute, the *Residential Tenancy Act*, and can only hear and resolve disputes that are within the jurisdiction created by the statute.

Section 2 of the *Act* states that it applies to tenancy agreements. It defines “tenancy agreement” as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy.

“Landlord” is defined as:

- the owner of the rental unit;
- the owner’s agent;
- a person acting on behalf of the owner;
- a person, other than a tenant occupying the rental unit, who is entitled to possession of the rental unit and exercises any of the rights of a landlord under a tenancy agreement. (Emphasis added).

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The landlord is renting the unit from the owner of the property. This makes her “ a tenant occupying a rental unit”. As such she is specifically excluded from the definition of landlord and therefore, any arrangements she makes to sublet a portion of the rental unit is excluded from the operation of the *Residential Tenancy Act*.

Conclusion

The Residential Tenancy Branch does not have jurisdiction over this dispute.

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: August 30, 2013

Residential Tenancy Branch

