



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction and preliminary matter

This non-participatory matter was conducted by way of a direct request proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), via the documentary submissions of the landlord only, and dealt with an application for dispute resolution by the landlord for an order of possession for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”).

In addition to other documentary evidence, the landlord submitted a tenancy agreement listing as the only named tenant RJS. The tenancy agreement did not include FF as a tenant, only as a signatory on behalf of RJS, which, by the title, appears to be a business or a business concern.

Analysis and Conclusion

The direct request process is a mechanism that allows the landlord to apply for an expedited decision, which requires that the landlord must submit documentation sufficiently clear and self-evident; there can be no omissions or deficiencies with items being left open to interpretation or inference.

The only named tenant in the tenancy agreement suggests that the tenant is a business.

Section 4(d)(i) and (ii) of the *Act* states that the Act does not apply to living accommodation included with premises that are primarily occupied for business purposes and are rented under a single agreement.

On the face of the documentary submissions of the landlord, I cannot determine whether the living accommodation is used for a business purpose, as the name suggests that this is the case, and therefore, outside the jurisdiction of the Act.

As described above, I therefore find the landlord's application under the direct request proceeding to be unclear as to be able to determine whether this dispute is excluded from the Act and I therefore I dismiss the landlord's application.

The landlord is at liberty to reapply and submit a new application through the normal dispute resolution process which includes a participatory hearing, for the purpose of determining whether the Act applies to this dispute and not excluded pursuant to section 4(d)(i) and (ii), and if so, for the relief requested in this application.

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* and is being mailed to both the applicant and the respondent.

Dated: April 25, 2014

Residential Tenancy Branch

