



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, MNDC, FF

Introduction

This hearing was to deal with an application by the tenant for a monetary order and an order compelling the landlord to comply with the Act, regulations or tenancy agreement. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail the respondent did not appear at the hearing.

After hearing and reviewing all of the tenant's evidence it became evident that a preliminary issue had to be decided before the substance of the tenant's application could be considered.

Preliminary Issue(s) to be Decided

Has the proper party been named as the landlord on this application?

Background, Evidence and Analysis

The *Residential Tenancy Act* defines "landlord" to include the following:

"the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord:

- permits occupation of the rental unit under a tenancy agreement; or,
- exercises powers and performs duties under this Act, the tenancy agreement or a service agreement."

The written tenancy agreement names a limited company as the landlord. Every piece of correspondence the tenant has received from the landlord has been from the limited company. Every interaction the tenant has had regarding her unit has been with an employee of the limited company. Every action the tenant is complaining of has been by an employee of the limited company. The Notice to End Tenancy the tenant said she had received named the limited company as the landlord.

In spite of all this, the tenant did not name the limited company as the landlord on this application. Instead she named an individual as the sole respondent and served only him with this application for dispute resolution and notice of hearing.

The tenant's roommate said this individual is the owner of the building and that she obtained this information from searches at City Hall and other places. The tenant did not file any written evidence such as land registry search results, corporate search results or property tax records to establish any connection between this individual and this tenancy agreement. The tenant did file several pages of information about this individual's difficulties with the law – none of relate to real estate and property management in general, or this building in particular.

On every application the onus is on the application to prove every element of their claim on a balance of probabilities. In this case, there is no evidence that the person named as the respondent on this application is the owner of this building or in any other manner fits within the definition of landlord as set out in the legislation. Accordingly, the tenant's application is dismissed with leave to re-apply.

Conclusion

The tenant's application is dismissed with leave to re-apply.

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 07, 2014

Residential Tenancy Branch

