



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OPT, FF

This is an application filed by the tenant to cancel a notice to end tenancy issued for landlord's use, to obtain an order of possession and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package, I am satisfied that both parties have been properly served.

The tenant states that there is no tenancy agreement between the two parties as he is a part owner of the property. The landlord's counsel states that there is no traditional tenancy agreement, but suggests that there was an agreement for consideration that the tenant reside at the rental address in lieu of the tenant paying the property taxes. The tenant disputes this stating that this is his home and subject to the estate planning for which the landlord, E.M. is the executor that there was no agreement to pay the property taxes in lieu of rent. The tenant states that as a part owner he agreed to pay the property taxes.

I find that based upon the testimony of both parties that there is no tenancy agreement. The landlord has failed to provide sufficient evidence that there was a landlord/tenant relationship which would translate to a tenancy agreement in which there was a consideration in lieu of rent. The tenant has provided a copy of an estate accounting of the tenant's mother, who the landlord, E.M. is the executor. This document states that the property in question is held in trust for the tenant and his brother.

This application is dismissed for lack of 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: June 04, 2014

Residential Tenancy Branch

