



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) by the Applicant to end the tenancy early and obtain an order of possession, and to recover the cost of the filing fee.

The applicant, a witness for the applicant, and the respondent attended the teleconference hearing and gave affirmed testimony. During the hearing both parties were given the opportunity to provide their evidence orally and respond to the testimony of the other party. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issue

The first issue that I must decide is whether the *Act* has jurisdiction over the parties in order to proceed with the Application.

The applicant confirmed that she is a tenant and that she has sublet a downstairs bedroom to the respondent, which the respondent confirmed. The applicant testified that she does not have permission in writing from the landlord, “B.J.” to sublet the rental unit. The applicant stated that she had verbal permission from the landlord, B.J., to sublet the rental unit but did not call the landlord as a witness and did not have any documentary evidence to support that she had permission from the landlord to sublet the rental unit. The respondent stated that she has never met the landlord.

Analysis

Based on the above, and on a balance of probabilities, I find the following.

Section 1 of the *Act* applies and defines “landlord” as the following:

“Landlord”, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- c) a person, other than a tenant occupying the rental unit, who**
 - (i) is entitled to possession of the rental unit, and**
 - (ii) exercises any of the rights of a respondent under a tenancy agreement or this Act in relation to the rental unit;**
- (d) a former landlord, when the context requires this;

[my emphasis added]

Based on the above, I find the applicant has provided insufficient evidence that she is a landlord as defined under the *Act*. As a result, I find the applicant is a tenant. As this dispute is either between tenants, or a tenant and an occupant, and not a dispute between a landlord and tenant, I find that I do not have jurisdiction to hear this dispute under the *Act*.

Conclusion

I decline to hear the applicant's Application due to lack of jurisdiction under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 7, 2014

Residential Tenancy Branch

