



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, LRE

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for an order requiring the landlord to return the tenant's personal property pursuant to section 65 and an order restricting the landlord's right to enter the rental unit.

The landlord did not attend this hearing, although I waited until 1117 in order to enable the landlord to connect with this teleconference hearing scheduled for 1100. The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant testified that she personally served the landlord with the dispute resolution package on 3 February 2015. On the basis of this evidence, I am satisfied that the landlord was served with the dispute resolution package pursuant to section 89 of the Act.

Preliminary Issue - Tenant's Request to Amend Application

The tenant testified that she was no longer living in the rental unit. The tenant asked to amend her application to withdraw her request for an order restricting the landlord's right to enter the rental unit. As there is no prejudice to the landlord by allowing the tenant to withdraw this portion of her application, I allowed it.

Preliminary Issue – Jurisdiction

The tenant testified that she lived in a bedroom on the upper floor of the residential property during this tenancy. The tenant testified that the landlord lives in a room under the stairs of the residential property. In the course of testifying about a heat lamp, which disappeared from the bathroom, it became apparent to me that there was a question of

my jurisdiction over this matter. I asked the tenant if she shares a bathroom with the landlord. The tenant testified that she and the landlord shared a bathroom. I asked the tenant if she knew if the landlord owned the rental unit. The tenant testified that the landlord represented to the tenant that he was the owner of the rental unit.

I find on the evidence before me that the landlord is the owner of the rental unit and that he and the tenant shared bathroom facilities during this tenancy.

Paragraph 4(c) of the Act excludes jurisdiction over disputes in relation to living accommodations in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

On the basis paragraph 4(c) of the Act, I decline jurisdiction over this matter.

I understand that there are other orders that have been issued in respect of this tenancy. It appears from the earlier decisions that the issue of jurisdiction did not arise. I make no comment as to the legal status of these earlier orders.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: February 27, 2015

Residential Tenancy Branch

