



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with applications from both the landlord and the tenant under the *Residential Tenancy Act* ("the *Act*"). The landlord applied for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent, loss pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") pursuant to section 46;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both the tenant and the landlord attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. An assistant for the landlord was present. Both parties testified with respect to service of their own documentary materials and Notices of Hearing to the other party in accordance with the *Act*. Both parties confirmed receipt of the other's materials.

Preliminary Issue: Jurisdiction

Both parties agreed, supported by the residential tenancy agreement submitted in documentary evidence that this tenancy began on September 1, 2014. The landlord testified that he continues to hold a security deposit in the amount of \$1250.00 paid by the tenant on August 28, 2014. The rental amount for these premises was \$2500.00 payable on the first of each month.

The tenant testified that he regularly attended the residential premises to deliver medication to the tenants residing there. He testified that he brought in rehabilitative resources, support groups and services as well as resource information, on a regular basis.

Section 4 of the *Act* provides a number of types of accommodations that the *Act* does not apply to. These exclusions remove housing run by a non-profit, transitional housing and housing that provides certain services from the jurisdiction of the *Act*. Section 4(g)(vi) provides that housing that is made available in the course of providing rehabilitative or therapeutic treatment or services is outside of scope of the *Act*.

The “tenant” testified that he rented the residential premises from the landlord with the intention of creating living accommodation opportunities to assist individuals with mental health issues with life skills and counseling resources. The testimony of the landlord is that he believed the tenant was residing in the rental unit though his testimony wavered on this point during the course of the hearing. The tenant testified that the landlord was informed, at the signing of the tenancy agreement that he intended to provide rehabilitative and therapeutic treatment within the home.

I accept the tenant’s testimony regarding the purpose of the agreement for use of the premises. The landlord testified that he was aware the tenant provided rehabilitative services but that he did not understand the nature of these services. The landlord had signed an addendum to the rental agreement that stated the use of this residence as a rehabilitative facility.

The landlord testified that, while the tenancy agreement in this matter includes an addendum indicating that this housing is intended for use as transitional housing, he did not understand what traditional housing was and just signed what the tenants put before him. . I find the landlord had a responsibility to inform himself if he was agreeing to a rental for these purposes and did not understand what was entailed. I find the tenant’s testimony that the landlord was aware of the use of this house was credible.

The testimony of both parties was that several people reside in the house that is a matter of this application. The people in the house received support in living quasi-independently .They were provided with a variety of support services and assisted with medication. The intention of the “tenant” was to create rehabilitative and therapeutic setting to help people.

The evidence and testimony provided point to a house that was intended to provide a rehabilitative setting for individuals struggling with a variety of mental health issues. I find that the landlord, in all the circumstances and on a balance of probabilities was informed of this intention from the outset of the tenancy. I find this arrangement between

the two parties falls outside the scope of the *Act* by definition. I find the nature of the agreement between these two parties does not reflect a residential tenancy as defined in the *Act*.

Conclusion

Given all of the information provided and based on the testimony that I have chosen to rely on, I find that this matter does not fall within the purview of the Residential Tenancy Act. Therefore, I decline to hear the matter.

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: April 1, 2015

Residential Tenancy Branch

