



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC, RPP, OPT, OPR, MNR, 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 pursuant to section 67; 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;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65;
- an Order of Possession of the rental unit pursuant to section 54; and
- 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. Each party called one witness. 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

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 the tenant intended to provide rehabilitative and therapeutic treatment within the home. 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.

I accept the tenant’s testimony regarding the purpose of the agreement for use of the premises. I find the tenant’s testimony that the landlord was aware of the use of this house was credible. His testimony was supported by his witness. The witness testified that he was also involved in the business and had spoken to the landlord several times about the nature of the living accommodation in his house.

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, by both parties 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

