



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction:

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

- a) To cancel a Notice to End Tenancy dated April 29, 2015; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

Both parties attended and the landlord agreed they received the Application for Dispute Resolution. I find that the landlord was legally served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated April 29, 2015 for cause. Do I have jurisdiction in this matter?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced in 1997 and in a previous hearing in March 2015, the parties made a settlement agreement. However, during the hearing, the evidence was that this was a commercial tenancy as it is occupied by two lawyers as their office. One of the lawyers said he had a mattress on the premises and slept there sometimes but it is their business premises.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis:

Section 4 of the Act sets out situations where the Act does not apply. Section 4(d) states that the Act does not apply to living accommodation included with premises that (i) are primarily occupied for business purposes.

As explained to the parties in the hearing, I have no jurisdiction in this matter. Their dispute belongs in a different forum.

Conclusion:

I dismiss this application in its entirety without leave to reapply as I find I have no jurisdiction in this matter. I find the tenant is not entitled to recover filing fees.

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 24, 2015

Residential Tenancy Branch

