



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPT, OLC, MNDC, LRE, FF

Introduction, Preliminary and Procedural Matters

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant, through his amended application, applied for an order cancelling the landlord's 1 Month Notice to End Tenancy for Cause ("Notice"), for an order of possession for the rental unit, for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, for a monetary order for money owed or compensation for damage or loss, for an order suspending or setting conditions on the landlord's right to enter the rental unit, and for recovery of the filing fee paid for this application.

The tenant/applicant and the landlord/respondent attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence.

The tenant/applicant was then informed that the portion of his application dealing with all issues not related to his request for an order cancelling the landlord/respondent's Notice are unrelated to the primary issue of disputing the Notice. As a result, pursuant to section 2.3 of the Dispute Resolution Rules of Procedure (Rules), I have severed the tenant/applicant's Application and dismissed that portion, with leave to reapply.

Thereafter, the issue of jurisdiction was addressed with the parties, as information received prior to the hearing indicated that the landlord, who is the owner, has recently moved into the residential property, which housed the tenant in a single room occupancy tenancy. The parties confirmed that they now share kitchen facilities.

Analysis

Section 4 (c) of the Act states that the Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that

accommodation. In this case, the tenant/applicant and the landlord/respondent each confirmed that they share a kitchen facility.

In light of the above, I find that the living accommodation meets the above criteria for exclusion under the Act, and I therefore decline to find jurisdiction to resolve this dispute.

Although the parties are at liberty to seek the appropriate legal remedy to this dispute, the parties did agree at the hearing that the tenant/applicant would vacate the rental unit on or before July 31, 2015 and the landlord/respondent did agree that they would provide the tenant/applicant with continuing privacy as much as possible until the end of the tenancy.

Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute and I have declined jurisdiction.

The portion of the tenant/applicant's application not directly related to his request seeking cancellation of the Notice was severed and dismissed, with leave to reapply. I note for the benefit of the parties that I have not made any determination as to whether any of the severed, excluded issues accrued prior to the landlord/respondent moving into the residential property.

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: July 24, 2015

Residential Tenancy Branch

