



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HYDRO
and [applicant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed under the Residential Tenancy Act, (the “Act”), to dispute an additional rent increase and for a monetary order for money owed or compensation for damage or loss under the Act.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions. The applicant argued that the respondents’ evidence was received by email and that it was received late and the evidence should be excluded from the hearing.

I have reviewed the evidence, and I find the respondents evidence was filed with the Residential Tenancy Branch with the statutory time line and is relevant to the issue before me.

I asked applicant if they needed more time to review the evidence as an adjournment was considered. However, the applicant indicated that they have read the materials and they are not requesting an adjournment. Therefore, this hearing proceeded with all relevant evidence.

Preliminary matter

At the outset of the hearing counsel for the respondents argued that the Residential Tenancy Branch does not have jurisdiction over this matter, as this is an employee and employer dispute.

As the issue of jurisdiction was raised, the first issue that I must determine is whether the Residential Tenancy Branch has jurisdiction of this matter.

Counsel stated that the statute that governs the respondents is the Hydro and Power Authority Act, and under that legislation they are acting as agent for the government, and are exempt from the British Columbia Residential Tenancy Act.

Counsel submits that under section 32(1) of the Hydro and Power Authority Act, the authority is not bound by any other statute or statutory provision of British Columbia unless specified.

Counsel submits that section 32(7) of Hydro and Power Authority Act specifies the various Acts and provisions that apply to the respondents.

Counsel submits that the applicant is an employee of the respondents and is disputing the Employee Housing Policy of the respondents. Counsel submits that the applicant has recourse by filing a grievance with their union or with employment standards or labour relations as those statutes apply under section 32(7) of the Hydro and Power Authority Act.

The applicant submits that the Residential Tenancy Act applies in this case as the respondents were acting as a landlord. The applicant stated that a security deposit was paid to the respondents and the respondents received rent in bi-weekly payments that were deducted from their pay cheques for their living accommodations. The applicant stated that they have no choice when they accept working in these remote locations to live in housing that is leased by their employer as they lease the majority of the housing available.

The applicant submits that they are relying on section 2, 4, and 5 of the Residential Tenancy Act. The applicant states section 5 of the Residential Tenancy Act indicates that any attempt to avoid or contract outside the Act has no force or effect.

Counsel submits there is no attempt by the respondents to avoid or contract outside the Residential Tenancy Act as it does not apply to the respondents under section 32(7) of the Hydro and Power Authority Act.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

This matter is an employee and employer dispute regarding housing policies that are or were in place.

The respondents operate their business under the Hydro and Power Authority Act. Section 32 (1) of the Hydro and Power Authority Act provide that despite any specific provision in any Act to the contrary, except as otherwise provided in this Act, the authority is not bound by statute or statutory provision of British Columbia. Section 32(7) of Hydro and Power Authority Act defines what Acts apply to the authorities.

Although section 5 of the Residential Tenancy Act states that landlords and tenants may not avoid or contract out of this Act or the regulations and any attempt to avoid or contract out of this Act is of no effect, I find there is no attempt by the respondents to avoid or contract outside the Residential Tenancy Act. Since section 32(7) of the Hydro and Power Authority Act does not list the Residential Tenancy Act.

Therefore, based on the above, I decline to hear the matter due to the lack of jurisdiction.

Conclusion

I decline to hear the matter due to lack of jurisdiction.

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: October 08, 2015

Residential Tenancy Branch

