



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), and deals with an Application for Dispute Resolution for:

1. An Order of Possession – Section 55; and
2. A Monetary Order for unpaid rent – Section 67.

Issue(s) to be Decided

Is the dispute in relation to a tenancy agreement, rental unit or other residential property?

Background and Evidence

In the Application made January 20, 2016 the Applicant seeks an order of possession and claims unpaid rent of \$4,000.00. The Applicant provides, inter alia, a copy of a lease agreement between the Parties that describes the premises being leased as “a portion of the property that accesses and includes an 1800 sqft. Half shop space on site”. The lease agreement provides that the premises are to be used to facilitate storage and for no other use and that the “Landlord and his family live in the two houses on site full time and use the other half [of] the shop space.” The proof of service in relation to the notice of proceedings submitted by the Landlord includes a notation that “this is a sublease of shop space on “residential” ppty”.

Analysis

Section 2 of the Act provides that the Act applies to tenancy agreements, rental units and other residential property. Section 1 of the Act defines “residential property” to mean a rental unit and other areas such as common areas. The definition of a “rental unit” means living accommodation that is rented to a tenant. As nothing in the lease agreement indicates that any portion of the property being leased is used for residential purposes and given the explicit use of the premises for storage only, I find that the lease agreement is not a tenancy agreement and is not in relation to a rental unit or other property that is used for residential purposes. The Act therefore does not apply to the dispute and I dismiss the application.

Conclusion

The application is dismissed.

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: January 28, 2016

Residential Tenancy Branch

