



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, FF

Introduction

This is an application brought by the tenant(s) requesting an Order canceling a Notice to End Tenancy that was given for cause, requesting a monetary Order in the amount of \$8640.00, and requesting recovery of their \$100.00 filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

First issue I dealt with was whether or not the Residential Tenancy Act has jurisdiction over this dispute.

Background and Evidence

The parties testified that this both a Residential and Commercial Tenancy under one agreement and there is no separate residential agreement or commercial agreement.

The parties also testified that the rent they pay covers both the residential and commercial portions of the tenancy and the main reason they rented this unit was so that the female tenant could run her hair salon.

Analysis

Section 4(d) of the Residential Tenancy Act states

4 This Act does not apply to

- (d) living accommodation included with premises that
 - (i) are primarily occupied for business purposes, and
 - (ii) are rented under a single agreement,

And in this case it is my finding that these premises are primarily occupied for business purposes, and are rented under a single agreement, and therefore the Residential Tenancy Act does not apply to this tenancy.

Conclusion

I decline jurisdiction over this dispute and the parties will have to look to some other jurisdiction to resolve their issues.

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 01, 2016

Residential Tenancy Branch