



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPL, MNR, O, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent and for landlord's use of property, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- other unspecified relief; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Jurisdiction to hear Matter

At the outset of the hearing, both parties confirmed that they had attended a "previous hearing" before me at the Residential Tenancy Branch ("RTB") on August 11, 2016, after which a decision of the same date was issued by me ("previous decision").

In the previous decision, I found that I did not have jurisdiction as per section 4(c) of the *Act*, to hear the tenant's application. I found that the landlord owner and the tenant shared a kitchen and bathroom at the rental unit.

At the previous hearing, I advised both parties about my decision regarding jurisdiction. I notified both parties that they could pursue their claims at the Provincial Court of British Columbia or the Supreme Court of British Columbia, if they wished to do so. I also advised both parties that because of their rights to review my decision under section 79 of the *Act*, I could not cancel the landlord's application for this current matter of September 28, 2016. I notified both parties that if either party was successful in obtaining a review hearing and my previous decision was overturned, both parties

would be required to attend this hearing. I advised both parties to attend this hearing out of an abundance of caution.

During this hearing, both parties confirmed that they had not filed for a review of my previous decision at the RTB or a judicial review at the Supreme Court of British Columbia. Accordingly, my previous decision is confirmed and I am bound by those findings where I declined jurisdiction over this tenancy.

At this hearing, I again notified both parties that they could pursue their claims at the Provincial Court of British Columbia or the Supreme Court of British Columbia, if they wished to do so.

Conclusion

I decline to hear the landlord's application as I have no jurisdiction under section 4(c) of the *Act*.

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: September 29, 2016

Residential Tenancy Branch