



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kennedy Lake Resort
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, FF

Introduction

This is an application brought by the tenant disputing an additional rent increase and requesting recovery of his filing.

The applicant(s) testified that the respondent was served with notice of the hearing by registered mail that was mailed on March 8, 2016 however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

After reading the file I had concerns as to whether the Residential Tenancy Act had jurisdiction over this matter, and therefore I first issue I dealt with was jurisdiction.

Background and Evidence

The applicant testified that he is renting this property and another property from the landlord and has an agreement allowing him to build structures on the properties and sell them.

The applicant further testified that he wouldn't actually be selling the land; the parties would only be purchasing the structures that he builds on the land.

Analysis

The *Residential Tenancy Act* provides that the Act does not apply to living accommodation included with premises that

- i) are primarily occupied for business purposes, and
- (ii) are rented under a single agreement

In this case the applicant has testified that he is rented this property with the intention of using the property to build structures to sell, and although he may also be living on one of the properties is my finding that these properties are primarily occupied for business purposes.

It is my decision therefore that the Residential Tenancy Act does not have jurisdiction over this dispute.

Conclusion

I declined jurisdiction over this application.

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 24, 2016

Residential Tenancy Branch