



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O

Introduction

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

- other remedies, identified as a declaration as to whether the *Act* applies or whether this is a commercial tenancy excluded by the *Act*, pursuant to section 4.

The tenant and the two landlords attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlords confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both landlords were duly served with the tenant's application.

Issue to be Decided

Is the tenant entitled to a declaration as to whether the *Act* applies or whether this is a commercial tenancy excluded by the *Act*?

Background and Evidence

The tenant brought this application seeking a determination as to whether the *Act* applies or whether this is a commercial tenancy excluded by the *Act*. Both parties agreed that the tenant resides in a rental unit pursuant to a tenancy agreement with the landlords. The tenant explained that she made this application because she was told by the landlords that they intend to sell the rental unit and she requires proper notice before moving. She maintained that she anticipates being served with a 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice") but she has not yet received one from the landlords. The landlords confirmed that they intend to sell the

rental unit but they have not yet done so, nor have they served the tenant with any notices to end tenancy.

Analysis

I find that the determination and decision requested by the tenant is not appropriate. The landlords have not advanced a claim against the tenant, nor have they served her with any notices to end tenancy. The tenant does not have a dispute with the landlords, for which she is claiming specific relief.

If the landlords make a claim or serve a notice to end tenancy, it will be open to the tenant to reply to the application and present evidence and make submissions in opposition to the landlords' claim. If a dispute arises and the tenant chooses to file a claim against the landlords, the landlords may reply and present supporting evidence. At that time, the parties can raise the issue as to whether the Residential Tenancy Branch has jurisdiction to hear the matter. However, it is not appropriate for me to make a pre-emptive determination as to the merits of either party's claims before they have been made.

Pursuant to section 59(5)(a) of the *Act*, I can refuse to accept an application if it does not disclose a dispute that may be determined. I find that the tenant has not identified any relief to which she is entitled on this application and her application is dismissed with leave to reapply.

Conclusion

The tenant's application is dismissed with leave to reapply.

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 06, 2017

Residential Tenancy Branch