



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ERP, LRE, OLC, PSF, RP

Introduction

This hearing was scheduled in response to the tenants' Application for Dispute Resolution made on December 12, 2016, in which the tenant ("the applicant") has requested an order that the landlord make emergency repairs and repairs, that the landlord comply with the Act and provide services and facilities required by the tenancy agreement or law and that conditions be placed on the landlords' right to enter the rental unit.

On December 23, 2016 the tenant amended the application to cancel a one month ending tenancy for cause.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

The landlord ("the respondent") confirmed receipt of the hearing documents within the required time limit.

Jurisdiction

The applicant and respondent confirmed that the applicant rents a room from the respondent. The respondent has had a long-term tenancy with the owner of the home.

The respondent confirmed that he does not act as an agent for the landlord. The respondent is responsible for all rent that is paid to the owner of the rental unit. The respondent rents out rooms to subsidize his rent owed.

The Act defines landlord:

"landlord", in relation to a rental unit, includes any of the following:

(a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,

(i) permits occupation of the rental unit under a tenancy agreement,
or

(ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

(b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);

(c) a person, other than a tenant occupying the rental unit, who

*(i) is entitled to possession of the rental unit, and
(ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;*

(d) a former landlord, when the context requires this;

Therefore, as the respondent is not agent for the landlord I find that the respondent is a tenant and not a landlord; he does not meet the definition of landlord.

Residential Tenancy Branch policy defines occupant as:

Where a tenant allows a person who is not a tenant to move into the premises and share the rent, the new occupant has no rights or obligations under the tenancy agreement, unless all parties agree to enter into a tenancy agreement to include the new occupant as a tenant.

Therefore, as the respondent does not meet the definition of landlord I find that the applicant is an occupant who is renting a room from the tenant.

Residential Tenancy Branch policy suggests that in situations such as this the applicant might wish to enter into a separate tenancy agreement to establish a landlord/tenant. This agreement would need to be made with the landlord; not the landlords' tenant. This would provide protection to all parties under the legislation.

As a result I find that neither party is able to rely on the Act.

Jurisdiction is declined.

Conclusion

Jurisdiction is declined.

This decision is final and binding and 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 17, 2017

Residential Tenancy Branch