# Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Horizon Recover House
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes:

OPR, MNR, MND, MNSD, MNDC, FF

Introduction

This hearing was convened in response to the Landlords' Application for Dispute Resolution, in which the Landlords applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, a monetary Order for damage, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution. The Landlord withdrew the application for an Order of Possession, as the rental unit has been vacated.

The Landlord stated that on January 15, 2017 the Application for Dispute Resolution and the Notice of Hearing were personally served to the Tenant with the initials "V.P.", hereinafter referred to as the Tenant. As noted in the interim decision of February 07, 2017, I found that these documents have been served to the Tenant and the recovery house named in the Application for Dispute Resolution.

On January 19, 2017 the Landlords submitted 25 pages of evidence to the Residential Tenancy Branch. On February 02, 2017 the Landlords submitted 8 pages of evidence to the Residential Tenancy Branch. As noted in the interim decision of February 07, 2017, I did not accept any of these documents as evidence for these proceedings.

The hearing on February 06, 2017 continued until it became apparent that evidence submitted by the Landlord was relevant to the issues in dispute. At that point the hearing was adjourned to provide the Landlords with the opportunity to re-serve evidence to the Tenant.

Residential Tenancy Branch records show that on February 09, 2017 notice of the reconvened hearing and my interim decision was sent to the Tenant by email and to the Landlord by mail. On February 14, 2017 the Residential Tenancy Branch learned the reconvened hearing and interim decision had been sent to the incorrect email address. That error was reported to the appropriate government authorities and the Landlord and the Tenant were advised of the error.

Residential Tenancy Branch Records show that on February 20, 2017 the notice of the reconvened hearing and the interim decision was sent to the Tenant at the correct email address. The Tenant stated that she did not receive the notice of reconvened hearing with the email sent to her on February 20, 2017.

Residential Tenancy Branch Records show that on February 20, 2017 the Tenant contacted the Residential Tenancy Branch and advised them she did not receive the email that was sent on February 09, 2017, at which time she was given the codes to dial into the teleconference on March 09, 2017.

The hearing was reconvened on March 09, 2017, during which the Landlord requested an adjournment because she had insufficient time to submit evidence due to the fact that she had not received the interim decision until February 20, 2017.

The Landlord and the Tenant were advised that the issue of jurisdiction would be discussed at the hearing on March 09, 2017 and that if I determined that I did not have jurisdiction in this dispute, they would be advised in writing that the matter was being concluded. The parties were advised that if I determined that I did have jurisdiction over this dispute the hearing would be adjourned to give the Tenant every opportunity to submit evidence in response to the evidence submitted by the Landlord.

At the hearing on February 06, 2017 and in my interim decision of February 07, 2017 the Landlords were given the opportunity to re-submit their evidence to the Residential Tenancy Branch. On February 09, 2017 the Landlords submitted 14 pages of evidence and one cover sheet to the Residential Tenancy Branch.

The Landlord stated that the evidence package that was submitted to the Residential Tenancy Branch on February 06, 2017 was sent to the Tenant, via email, on February 06, 2017. The Tenant acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Preliminary Matter

The Landlord stated that on January 17, 2017 the Application for Dispute Resolution and the Notice of Hearing were served to the Respondent with the initials “C.M.”, via registered mail, by sending it to the rental unit. The Landlord cited a Canada Post tracking number that corroborates this testimony

The Landlord and the Tenant acknowledge that this Respondent does not reside at the rental unit, which is a recovery house and that this Respondent is not named on the tenancy agreement. The Tenant stated that the Respondent with the initials “C.M.” is no longer a director of the recovery house; that she does not know if she received a

copy of the Application for Dispute Resolution; and that she was not a party to this tenancy agreement.

On the basis of the testimony of the Tenant and the tenancy agreement that was submitted in evidence, I find that there is insufficient evidence to establish that the Respondent with the initials "C.M." was a party to this tenancy agreement.

As there is no evidence to establish that the Respondent with the initials "C.M." was a director at the recovery house or that she resided at the rental unit, I find there is insufficient evidence to establish that she was served with the Application for Dispute Resolution in accordance with section 89 of the *Residential Tenancy Act (Act*). I therefore dismiss the Landlord's application for a monetary Order naming this individual.

Issue(s) to be Decided

Do I have jurisdiction in this dispute and, if so, are the Landlords entitled to a monetary Order for unpaid rent or utilities and to keep all or part of the security deposit?

Background and Evidence

The Landlord and the Tenant agree that:

- the tenancy began in July of 2016;
- the Tenant agreed to pay monthly rent of $6,250.00;
- a security deposit was paid;
- a Notice to End Tenancy for Unpaid Rent, which had a declared effective date of January 08, 2017, was personally served to the Landlord on January 31, 2107;
- no rent has been paid for January of 2017; and
- the rental unit was vacated in January of 2017.

The Tenant stated that:

- there were between 8 and 14 people living in this rental unit at any given time;
- the residents of the unit were all recovery from drug or alcohol addiction;
- the residents were all required to participate in an afternoon class aimed at relapse prevention, which lasted between 2-3 hours;
- the classes were facilitated by either the Landlord or a counsellor; and
- the Landlord or staff dispensed night medications.

The Landlord stated that she understood the rental unit was being used as a recovery house for people with drug or alcohol addictions, but she does not know what kind of supports were provided to the residents.

The Landlord stated that the recovery house did not have a business license and were told, by the City, to stop operations. The Tenant stated that they were not required to have a business license; that they were required to have permission from the City to operate a recovery house; and that they did not obtain the necessary permission.

The Landlord and the Tenant both stated that they did not know if I had jurisdiction over this dispute. They both declined the opportunity to submit a written submission regarding jurisdiction.

Analysis

Section 4(g)(vi) of the *Residential Tenancy Act (Act*) stipulates that this *Act* does not apply to living accommodation that is made available in the course of providing rehabilitative or therapeutic treatment or services.

On the basis of the undisputed evidence I find that the residents of this rental unit lived in the rental unit for the purpose of receiving support in recovering from addictions. I find that rehabilitative services is commonly understood to include recovering from drug and alcohol addictions and I therefore find that this rental unit provided accommodations in the course of providing rehabilitative services. As such, I find that the *Act* does not apply to this rental situation, pursuant to section 4(g)(vi) of the *Act.*

Conclusion

As the *Act* does not apply to this rental situation, I find that I do not have jurisdiction in this matter and I dismiss the Application for Dispute Resolution. The Landlord retains the right to resolve this dispute in a court of competent jurisdiction.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: March 10, 2017

Residential Tenancy Branch