



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, OPT, AAT

Introduction and Analysis

This hearing dealt with an Application for Dispute Resolution (the “Application”) under the Residential Tenancy Act (the “Act”) for:

- an Order for the Respondent to return the Applicant’s personal property;
- an Order of possession for the unit; and
- an Order to allow access to (or from) the unit.

The Applicant and Respondent appeared at the teleconference hearing and gave affirmed testimony. The Respondent appeared with legal counsel. At the start of the hearing, Counsel for the Respondent took the position that the Residential Tenancy Branch did not have jurisdiction to hear this dispute. The Applicant and the Respondent were given an opportunity to make submissions on the matter of jurisdiction.

The Applicant resided in a home with her partner and her partner’s father, the owner, for many years. The Applicant’s partner’s father passed away after which the executor of the deceased’s estate became responsible for the property. The executor permitted the Applicant and her partner to continue to reside in the property pursuant to a tenancy agreement. The tenancy agreement did not require rent to be paid. The Applicant’s partner subsequently passed away intestate. The executor of the Applicant’s partner’s estate is seeking to distribute the personal property left in the residence. The Applicant is claiming ownership of the personal property belonging to her and her deceased partner giving rise to the Applicant’s claim under the *Residential Tenancy Act*.

Based upon the foregoing, I find that the evidence has established that there is an ongoing estate matter regarding a dispute as to entitlement to the personal property left in the residence, which is the subject matter of this Application.

As the *Act* does not have jurisdiction over estate matters, I decline jurisdiction in this matter.

Conclusion

Based upon the reasons set out above, I decline to accept jurisdiction in this matter.

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: March 24, 2017

Residential Tenancy Branch