



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC O

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the Act") for: cancellation of the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47; authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Preliminary Matter: Jurisdiction

At the outset of the hearing, the issue of whether the Residential Tenancy Branch has jurisdiction to hear this matter was raised. The respondent's representative testified that she has authorization to speak on behalf of the tenant. She testified that there is an ongoing family court matter with respect to these two individuals and argued that the court supersedes the Residential Tenancy Branch jurisdiction.

The respondent submitted documentary evidence for this hearing that shows this matter is currently being addressed in Provincial Court. The respondent referred to an Order issued by a provincial court judge ordering that;

- A police officer is directed to remove the applicant from the residence;
- The applicant is not to be within 50 metres of the residence;
- The applicant is not to communicate with the respondent;
- The applicant is permitted, in the company of a police officer to attend to the residence and, with supervision, remove his personal belongings.

The respondent testified that the residential tenancy agreement documents and other materials submitted by the applicant are not legitimate and the nature of these documents is to be scrutinized in Provincial Court.

The applicant was evasive in his answers as to whether or not the applicant and tenant resided together. He testified that “sometimes” they did but not all the time.

A fundamental requirement of any tenancy is an agreement, a meeting of the minds. As with all tenancy matters, this agreement should address a variety of tenancy related issues including but not limited to the use of the unit itself as well as of the common areas, services and facilities. The facts are unclear in this matter. While there may have been some informal and changeable understanding between the parties, the evidence of both the applicant and the respondent is evidence that they were roommates for a period of time, perhaps co-tenants.

More importantly, based on the party’s description of the circumstances between the applicant and respondent as well as the proof of ongoing court proceedings in another venue, I find that I have no jurisdiction to consider this matter. Further, I find that this living arrangement was unlikely either a tenancy or a sublet and therefore not governed by the *Residential Tenancy Act*. As a result of these two findings (the type of living arrangements as well as the ongoing proceedings elsewhere), I find that I do not have jurisdiction in this matter.

Conclusion

I decline to hear this matter as I do not have 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 *Residential Tenancy Act*.

Dated: July 05, 2017

Residential Tenancy Branch