



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

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

- cancellation of the respondent's 1 Month Notice to End Tenancy for Cause, dated May 14, 2017 ("1 Month Notice"), pursuant to section 47; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 21 minutes in order to allow both parties to fully present their submissions.

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

Preliminary Issue – Jurisdiction to hear Matter

Both parties agreed to the following facts. The applicant rents a storage space, which is a garage, from the respondent. The applicant does not live at the garage, he stores his belongings there.

Section 1 of the *Act* defines a rental unit:

"rental unit" means living accommodation rented or intended to be rented to a tenant...

Section 2(1) defines what matters I can deal with under the *Act* (emphasis added):

*2 (1) Despite any other enactment but subject to section 4 [what this Act does not apply to], this Act applies to tenancy agreements, **rental units** and other residential property.*

In this case, the applicant does not live at the garage, he only stores his belongings there. Therefore, the garage is not a “rental unit” under the *Act*. The Act only applies to rental units, so this claim does not fall under the *Act*. Simply because the parties used Residential Tenancy Branch forms for their tenancy agreement and the 1 Month Notice, does not mean that the *Act* applies to their matter.

Accordingly, I find that I do not have jurisdiction to hear the applicant’s application as the *Act* does not apply to this matter.

I advised both parties about my decision during the hearing. I notified the applicant that he could pursue his claim at the Provincial Court of British Columbia or the Supreme Court of British Columbia, if he wished to do so.

Conclusion

I decline to hear the applicant’s application as I have no jurisdiction under the *Act*.

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 07, 2017

Residential Tenancy Branch