



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR

Introduction

This hearing was held in response to the tenant's application for dispute resolution in which the tenant has applied to cancel a 10 day Notice to end tenancy for unpaid utilities issued on September 15, 2017.

The landlord attended the hearing at the scheduled start time.

Jurisdiction

At the start of the hearing it became apparent that the relationship between the applicant and respondent was not typical. Testimony was then pursued in relation to the relationship between the parties.

The respondent provided affirmed testimony that the applicant is an individual who lived with the respondent's brother in a mobile home. The respondent co-owned the rental unit with her brother. The respondent paid all the costs of running the home as her brother was unable to do so.

On July 31, 2017 the respondent's brother deceased. The home is now owned by the respondent.

The applicant has refused to vacate. The respondent wanted the applicant to pay the utility costs for the time the applicant remained in the home. In the absence of payment the respondent issued the 10 day Notice to end tenancy for unpaid utilities. The respondent said that a tenancy was never created with the applicant. The respondent has not received any rent or utilities from the applicant.

Residential Tenancy Branch policy defines occupant:

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.

Further, if the owner of a home allows a person to live in the home and they share a bathroom or kitchen, Section 4 (c) of the Act determines that jurisdiction does not apply.

I have no details on the arrangement the respondents' brother and the applicant had made and the applicant has failed to attend the hearing to make submissions in support of a tenancy. From the testimony provided it is reasonable to assume that a bathroom and kitchen were shared between the applicant and the deceased co-owner of the rental unit.

Therefore, in the absence of the applicant, I find that the respondents' submissions reflect the true relationship between the applicant and respondent as not that of landlord and tenant. The respondent owns the home and has not accepted a tenancy.

It appears that the applicant was either a roommate to the respondents' deceased brother or paid rent to the deceased person to reside in a home where the bathroom and kitchen were shared.

Therefore, in the absence of evidence that a tenancy has been established, 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: October 19, 2017

Residential Tenancy Branch