



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC OPC FF

Introduction

Only the respondent/landlord attended the hearing and gave sworn or affirmed testimony. The applicant had not joined the conference by 10:45a.m. No One Month Notice to End Tenancy is in evidence and the landlord states the Act does not apply to this situation. She said the tenant served his Application for Dispute Resolution dated December 21, 2017 by registered mail. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47;
- b) To obtain an Order of Possession for the tenant; and
- c) For compensation for disturbance of his peaceful enjoyment contrary to section 28 of the Act.

Preliminary Issue:

Do I have jurisdiction in this matter?

The landlord said she is the owner of the home and shared bathroom and facilities with the tenant so the Act does not apply. She provided documentary evidence of her ownership. She said the tenant began renting the room in July 2017 for \$400 a month and paid a security deposit of \$250 based on a higher rent. She said he was having problems and she was sympathetic so she reduced the rent to \$400 a month.

She said the situation became very tense, the Police were involved but would not act because the tenant told them he had filed an Application with the Residential Tenancy Branch. She moved out of her home for a month and the tenant finally vacated after not paying rent for some time.

Analysis:

Section 4 of the Act states it does not apply to (c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. I

find the weight of the evidence is the landlord is the owner of the home and the tenant shared bathroom or kitchen facilities with her. Therefore, I find the Act does not apply to this situation so I have no jurisdiction in this matter.

Conclusion:

The Application of the Tenant is dismissed. I have no 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: February 14, 2018

Residential Tenancy Branch