



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC

Introduction

This hearing dealt with an Application for Dispute Resolution (the "Application") and an Amendment to the Application for Dispute Resolution (the "Amendment") filed by the Applicant under the *Residential Tenancy Act* (the "Act") seeking more time to cancel a One Month Notice to End Tenancy for Cause (the "One Month Notice") and cancellation of the One Month Notice.

The hearing was convened by telephone conference call and was attended by the Applicant and the Respondent, both of whom provided affirmed testimony. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure"). However, I refer only to the relevant facts and issues in this decision.

At the outset of the hearing I identified that the address for the Applicant and the address for the Respondent are the same. The parties agreed that the Applicant rents a room in a single family home from the Respondent and that the Respondent also resides in the home. The Respondent stated that his mother is the owner and that he has power of attorney for her, however, no documentary evidence was submitted for my consideration in support of this testimony. The parties also agreed that they share kitchen and bathroom facilities with one another.

Based on the above, I find that I must determine whether I have the jurisdiction to hear this matter under the *Act* prior to considering the merits of the Application and the Amendment. Section 1 of the *Act* defines a landlord as follows:

"**landlord**", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
 - (i) is entitled to possession of the rental unit, and
 - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

Although there is a copy of a tenancy agreement in the documentary evidence before me listing the Applicant as a tenant and the Respondent as a landlord, the Respondent acknowledged that he is not the owner of the property and did not submit any documentary evidence to demonstrate that he has legal authority to act as an agent for the owner or to permit occupation of the rental unit under a tenancy agreement. As a result, I find that I have insufficient evidence before me to satisfy me, on a balance of probabilities, that the Respondent is in fact a landlord. Further to this, as the Applicant testified that he only rents a room and that he shares kitchen and bathroom facilities with the Respondent, I find it more likely than not that they are roommates.

Policy Guideline 27 states that the Legislation does not confer upon the Residential Tenancy Branch (the "Branch") the authority to hear all disputes regarding every type of relationship between two or more parties. It also states that the Branch only has the jurisdiction conferred by the Legislation over landlords, tenants and strata corporations. As stated above, I find that there is insufficient evidence before me to satisfy me on a balance of probabilities that the Respondent is a landlord under the *Act*, and as a result, I am not satisfied that this is a landlord and tenant dispute over which I have jurisdiction under the *Act*. As a result, decline to hear this matter for lack of jurisdiction and I encourage the parties to seek independent legal advice in relation to 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: May 10, 2018

Residential Tenancy Branch