



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an Application for Dispute Resolution by the applicant for an urgent application to end tenancy due to an assault.

The applicant attended the hearing. As the respondent did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The applicant testified the Application for Dispute Resolution and Notice of Hearing by posting to the door of the respondent's bedroom.

Section 90 of the Act determines that a document served in this manner is deemed to have been served three days later. I find that the respondent has been duly served in accordance with the Act.

Preliminary issue

The first issue that I must decide is whether the Act has jurisdiction over the parties in order to proceed with this application.

The applicant testified that he is the owner of the townhouse and rented a room and a bathroom to the named respondent. The application stated that they share the kitchen with the respondent and that his wife often did the cooking for everyone.

Section 4 of the Residential Tenancy Act defines what the Act does not apply to. The Act states, it does not apply to living accommodation, in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

I accept the evidence of the applicant that he entered into an agreement with the respondent to rent a room and a bathroom. However, the evidence supports that the Residential Tenancy Act does not apply in this case, as the respondent shares the kitchen with the owner of the accommodation. I find the applicant and the respondent has no legal rights under the Act. Therefore, I find that there is no jurisdiction to proceed with this application and I dismiss the application without leave to reapply.

Since the Act has no authority over the parties, and the respondent has physically assaulted the owner; the owner is entitled to have the respondent removed from the property, as respondent has no legal rights under the Residential Tenancy Act.

Conclusion

I order that the application be dismissed without leave to reapply due to the lack of 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: May 31, 2018

Residential Tenancy Branch