



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This decision pertains to the Applicant's application for dispute resolution made on April 23, 2018, under the *Residential Tenancy Act* (the "Act"). The Applicant sought a monetary order against the Respondent for a return of a security deposit and for recovery of the filing fee.

The Applicant, their representative, and the Respondent attended the hearing before me and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. No issues of service arose.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the preliminary issue of this application is considered in my decision.

Preliminary Issue: Jurisdiction to Hear Matter

Upon my review of the parties' evidence submitted in advance of the hearing, and upon my questioning the parties, it became apparent that my jurisdiction to hear the application was the preliminary issue to be dealt with.

The Respondent submitted that the rental unit is a short-term vacation rental, and that they rent the property through a travel website company. The Applicant submitted into evidence a copy of a "BASIC RENTAL AGREEMENT" which indicated the Applicant rented the property March 1 to March 4, 2018. The parties confirmed this. The Respondent testified that the property is fully furnished and lies within an area zoned for short-term rentals. The Applicant acknowledged that their primary residence is in Atlanta, Georgia.

The Applicant did not dispute, or make any submissions regarding, the Respondent's

position on jurisdiction.

Analysis

Section 4 of the Act lists eleven types of living accommodations to which the Act, and thus my jurisdiction as an arbitrator, does not apply. Subsection 4 (e) of the Act states that the Act does not apply to “living accommodation occupied as vacation or travel accommodation.”

The testimony and documentary evidence of the parties confirms that the rental property to which this application pertains is “living accommodation occupied as vacation or travel accommodation.” That the rental property was rented for three nights, is fully furnished, is located within an area zoned for short-term rentals, and that the Applicant primarily resides elsewhere, leads me to find that it is a vacation or travel accommodation.

Accordingly, I find that the Act does not apply and that I do not have jurisdiction to consider the application because it is excluded by subsection 4 (e) of the Act.

Conclusion

I decline to hear the Applicant’s application as I have no jurisdiction under subsection 4 (e) of the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1 (1) of the Act.

Dated: July 5, 2018

Residential Tenancy Branch