



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (“application”) by the landlord for an order of possession based on an early end of tenancy application under section 56 of the *Act*, and to recover the cost of the filing fee.

The landlord and the landlord’s translator (“translator”) attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord and translator were given the opportunity to provide their evidence orally and respond to the testimony of the other party. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I accept the landlord’s undisputed testimony that the respondent was served by posting the Notice of Dispute Resolution Hearing and application on the respondent’s door on or about July 9, 2018. Therefore I find the respondent was deemed served on or about July 12, 2018 which three days after July 9, 2018 pursuant to section 90 of the *Act*. As the respondent did not attend the hearing, I consider this matter to be unopposed by the respondent.

Preliminary and Procedural Matters

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

The landlord affirmed through her translator that the respondent is not a tenant and is a squatter who entered the rental unit without her permission and is not paying rent and has not been approved by the landlord to be a tenant. The landlord testified through her translator that the last tenant moved out in June 2018 without written notice and that the landlord did not agree to sublet the rental unit or re-rent the rental unit to the respondent who the landlord alleges is trespassing on her rental property and has no right under the *Act*.

The translator confirmed the email addresses at the start of this proceeding for the landlord, translator and the respondent. The landlord and translator were advised that the decision would be emailed to the parties.

Analysis

Based on the above, and on a balance of probabilities, I find the following.

I accept the landlord's undisputed testimony that her previous tenant vacated the rental unit without notice in June 2018 and that without her permission, the respondent entered her rental unit and is trespassing and is not a tenant. Therefore, I find the respondent is not a tenant under the *Act* and is a squatter as claimed by the landlord and that the respondent has no rights under the *Act*.

As this dispute is between a landlord and respondent who is not a tenant under the *Act*, I find that I do not have jurisdiction to hear this dispute under the *Act*.

Conclusion

I decline to hear the applicant's application due to lack of jurisdiction under the *Act*. I do not grant the filing fee as a result. There is no evidence before me to support that the respondent is a tenant and has any rights under the *Act*. The landlord may wish to contact the police to have the respondent, who is trespassing according to the landlord, removed from the landlord's property immediately.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, 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: July 19, 2018

Residential Tenancy Branch