



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE, MNDCT, OLC

Introduction and Preliminary Matters

On July 12, 2018, the Applicants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting to cancel a 10-Day Notice to End Tenancy, to restrict entry for the Landlord, to order the Landlord to comply and for a monetary order for damages. The matter was set for a participatory hearing via conference call.

The hearing was originally scheduled for August 4, 2018; however, the Residential Tenancy Branch contacted the Applicants to reschedule the hearing for today. Audit notes indicated that the attempts to notify the Respondent of the rescheduled hearing were unsuccessful.

The Applicants attended the hearing, however, the Respondent did not attend at any time during the 13-minute hearing. The Applicants testified that they did not serve the Respondent with the new hearing information, nor were they aware if the Residential Tenancy Branch were successful in contacting the Respondent.

The Applicants also provided information that an Arbitrator in a previous Decision, dated May 10, 2018, (referred to on the first page of this Decision), found firstly, that the Respondent did not present evidence that they were a landlord and secondly, that the Residential Tenancy Branch may not have jurisdiction over the Applicants’ claims as a tenancy had not been established.

The Applicants testified that they share a bathroom and kitchen with the Respondent and that the Respondent issued the Applicants a Notice to End Tenancy. Section 4 of the Act states that the Act does not apply to a living accommodation in which the tenant

shares bathroom or kitchen facilities with the owner of the accommodation. Although the Respondent was not present during this hearing, it appears that the Residential Tenancy Branch may not have jurisdiction in regard to this living accommodation. Furthermore, because the Respondent was not properly notified of this hearing in accordance with Section 90 of the Act, I dismiss the Applicants' Application for Dispute Resolution with leave to reapply.

Conclusion

I dismiss the Application for Dispute Resolution with leave to reapply, however, this does not extend any applicable time limits under the Act. I have not made any findings of fact or law with respect to the Application.

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: September 06, 2018

Residential Tenancy Branch