



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a 10 Day Notice to End Tenancy for unpaid rent, to have the landlord make repairs to the rental property and to recover the filing fee.

Both parties appeared, gave testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Preliminary and Procedural matter

The first issue I must determine is whether the Residential Tenancy Act, applies to this matter.

In this case the tenant rented the premises. That agreement later changed when the IM, the legal owner moved into the premises and the tenant was to rent a room and the rent was significantly lowered. The parties agreed that they share common areas, such as the kitchen.

The tenant stated that they did intend for the tenancy agreement to be changed, as they thought the owner would only be there for a short period.

Section 4 of the Residential Tenancy Act States

4 This Act does not apply to

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

I accept the evidence of the tenant that they entered into a tenancy agreement. However, that agreement later changed when the landlord moved into the premises.

While I accept the tenant's evidence that they did not intend for the tenancy agreement to change, I find I have no authority under the Act to hear this matter as the tenant is sharing a living accommodation with the owner. Therefore, I find the Residential Tenancy Act does not apply.

Based on the above, I decline to hear the matter due to lack of jurisdiction.

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: January 11, 2019

Residential Tenancy Branch