



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

This teleconference hearing was scheduled in response to an application under the *Residential Tenancy Act* (the “Act”) to cancel a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Two Month Notice”) and for the recovery of the filing fee paid for the Application for Dispute Resolution.

The applicant and respondent were both present for the teleconference hearing and were affirmed to be truthful in their testimony.

Preliminary Matters

As the evidence of the parties indicated that jurisdiction was in question, this was brought up at the outset of the tenancy. The parties confirmed that they were co-owners of the home and both submitted documentary evidence of a co-ownership contract.

The applicant provided testimony that she is a 40% owner and that the respondent has 60% ownership of the home. The applicant stated that due to having tenants in the home, they divided up the management responsibilities. The applicant stated that the arrangement was for her to manage the lower level rental unit and for the respondent to manage the upper level rental unit. However, the applicant moved into the upper level suite and pays a monthly fee to the respondent to reside there.

The respondent stated that a Two Month Notice was not provided under the *Act* and instead that a notice to vacate was provided to the applicant which has since been cancelled.

In consideration of whether the *Act* applies to this matter, I refer to Section 2(1) of the *Act* which states the following regarding what the *Act* applies to:

2 (1) Despite any other enactment but subject to section 4 [what this Act does not apply to], this Act applies to tenancy agreements, rental units and other residential property.

Upon review of the definitions of tenancy agreements, rental units and residential property as provided under Section 1 of the *Act*, as well as the definitions of landlord and tenant, I find that this matter does not fall under the jurisdiction of the *Residential Tenancy Act*.

As the parties are co-owners of the home, regardless of their division of management of the home or arrangements regarding residing in the home, I do not find that this matter is a tenancy between a landlord and tenant. Accordingly, I find that the *Residential Tenancy Act* does not apply to this matter and therefore I decline jurisdiction and make no findings on the claims of the Application for Dispute Resolution.

Conclusion

I decline jurisdiction as I find that the *Residential Tenancy Act* does not apply to this matter.

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 23, 2019

Residential Tenancy Branch