



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing dealt with the applicant's application pursuant to the *Act* for:

- a monetary order for money owed or compensation for damage or loss under the *Act, Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision. The applicant stated that she is seeking "whatever money I can get" as a result of being served a Two Month Notice to End Tenancy for Landlords' Use of Property on October 31, 2017.

Preliminary Issue – Jurisdiction to Hear Matter

At the outset of the hearing the applicant advised that she had a great relationship with the respondents and that she was only doing this because "I'm in an insane amount of debt". The applicant further explained that her debt was in relation to her having to move her daycare business from the subject home to a new location. The applicant explained that the primary and only reason she rented this home was so that she could run her business from the basement of the home, otherwise she would not have rented it. The applicant and respondent both agreed that she ran her business from the lower level of the home and that she resided in the upper level of the home. Both parties further agreed that it was rented under a single agreement and there was no clear line as to where the tenancy began or ended and likewise with their business agreement for the daycare business.

Section 4 of the Act addresses the issue before me as follows.

What this Act does not apply to

- 4** This Act does not apply to
- (d) living accommodation included with premises that
 - (i) are primarily occupied for business purposes, and
 - (ii) are rented under a single agreement,

Based on the documentation and the testimony of the parties; specifically the applicant, I find that the Residential Tenancy Act does not apply for this relationship. The applicant was very clear that the only reason this relationship was ongoing was so that she could run her daycare business from this location and wasn't upset about moving her residence, but upset that she had to find a new location to run her business.

Conclusion

I HEREBY DECLINED TO HEAR this matter, for want of jurisdiction and the application is dismissed, without leave to reapply.

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: February 28, 2019

Residential Tenancy Branch