



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, AAT, OLC, OPT, PSF, RPP

Introduction

This hearing dealt with the Application for Dispute Resolution (the Application) pursuant to the *Residential Tenancy Act* (the Act) for:

- cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an Order of Possession of the rental unit pursuant to section 54; and
- various other remedies under the Act.

The applicants and agents for the respondents attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. Applicant M.Z. and Respondent D.R. (the respondent) stated that they would be the primary speakers during the hearing.

Preliminary Matters – Jurisdiction

At the outset of the hearing the respondent submitted that the Act has no jurisdiction as the unit was being rented under a transitional housing program agreement. The respondent referred to evidence provided which notified the applicants to vacate the unit due to the respondent terminating the applicants' program agreement effective as of January 14, 2019, which was signed by the applicants.

The applicant confirmed that they were not actually served with a 10 Day Notice or any other notice under the Act. The applicant stated that they were illegally evicted from their unit by a police officer. The applicant maintained that they want to continue to reside at the unit and requested an Order of Possession for the unit in addition to other remedies under the Act. The applicant submitted that they have a tenancy agreement, signed by both parties, which demonstrates that their unit is governed by the Act, however; no agreement was submitted into evidence at the time of the hearing. The applicant offered to provide this agreement after the hearing.

Rule 3.14 of the Residential Tenancy Branch Rules of Procedure states that documentary evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch not less than 14 days before the hearing. I find that the applicant did not serve the respondent or the Residential tenancy Branch with their evidence.

As the applicant submitted this Application on January 23, 2019, I find that they had sufficient time to provide their evidence for consideration and did not provide any indication that it was only recently available. I find that the respondent would be prejudiced by the consideration of late evidence that was available before the hearing as it would delay the proceedings and I decline to consider it.

Analysis

Section 4 (f) of the Act establishes that the Act does not apply to living accommodation provided for emergency shelter or transitional housing.

Having reviewed the above, based on a balance of probabilities and the testimony of the parties, I find that the applicants signed a document acknowledging the end of their program agreement. For the above reason, I prefer the respondent's submission that the applicants' unit was provided as living accommodation for transitional housing.

Therefore, I find that I do not have jurisdiction under the Act to hear this matter.

Conclusion

I decline to proceed due to a 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: March 08, 2019

Residential Tenancy Branch