



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TOGETHER WE CAN DRUG AND ALCOHOL RECOVERY
AND EDUCATION SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Applicant on February 20, 2019 (the “Application”). The Applicant sought compensation for monetary loss or other money owed.

The Applicant had filed amendments clarifying names and addresses on the Application.

The Applicant appeared at the hearing. J.H. appeared at the hearing and appeared for the Society. J.H. did not appear for T.F. I explained the hearing process to the parties and answered their questions in this regard. The parties provided affirmed testimony.

The Applicant had submitted evidence prior to the hearing. The Respondents had not submitted evidence. I addressed service of the hearing package and Applicant’s evidence. J.H. confirmed he and the Society received the hearing package and Applicant’s evidence.

I obtained testimony from the Applicant in relation to service of the hearing package and Applicant’s evidence on T.F. He testified that he served these by registered mail to the head office of the Society on February 20, 2019. He then changed this to February 13, 2019. He was unable to provide the tracking number for this. He confirmed T.F. is an employee of the Society. I accept this undisputed testimony and find T.F. was served in accordance with section 89(1)(c) of the *Residential Tenancy Act* (the “Act”). I note that the February 13th date does not accord with the Application date but also note that the Applicant originally testified he did this February 20, 2019.

Preliminary Issue – Jurisdiction

Given the materials submitted, I asked the parties at the outset about a tenancy agreement in this matter and their position on whether the RTB has jurisdiction in this matter.

J.H. testified as follows. The rental unit address is a house where residents share a room. There are two people to a room. There is a common kitchen. He lives in the house and shares the common areas with other residents.

J.H. further testified as follows. He does not believe the RTB has jurisdiction in this matter. The rental unit address is a second stage recovery house. The Society houses individuals coming from drug and/or alcohol treatment. The Society does not enter into residential tenancy agreements with the individuals. Residents are subject to rules including that they remain sober. Residents must disclose medications they are taking. Everyone in the house must be in a recovery program for alcohol and/or drugs and must provide proof of this. The Society does not provide the recovery programs. There is no limit on how long individuals can reside at the house. Some have resided there for three years. It is transitional housing.

The Applicant testified as follows. He believes the RTB does have jurisdiction in this matter. He agrees with the testimony of J.H. in relation to the purpose of the residence. He agrees the residence is meant to be transitional in the sense that it is meant to be a place to stay until residents can move on to another place. He does not know if he signed a residential tenancy agreement. He started living at the rental unit address December 01, 2018 and was kicked out December 08, 2018. Rent was \$1,000.00 per month. The Society completed a Shelter Information Form to receive rent from the applicable Ministry. He was intending to stay at the house long term. He did not pay a security deposit.

Transitional housing is defined in section 1 of the *Residential Tenancy Regulation* which states:

(2) For the purposes of section 4 (f) of the Act... "transitional housing" means living accommodation that is provided

(a) on a temporary basis,

(b) by a person or organization that receives funding from a local government or the government of British Columbia or of Canada for the purpose of providing that accommodation, and

(c) together with programs intended to assist tenants to become better able to live independently.

I am not satisfied the rental unit address is transitional housing given there is no limit on how long individuals can reside at the house.

Section 4(g)(vi) states that the *Act* does not apply to living accommodation made “available in the course of providing rehabilitative or therapeutic treatment or services” (emphasis added). I do not find this applies here as the Society does not provide the recovery programming, residents are simply required to take part in some kind of recovery program.

However, I am not satisfied the *Act* applies given the nature of the housing. J.H. testified that residents share rooms and there are two people to a room. The Applicant did not dispute this.

Pursuant to section 2(1) of the *Act*, the *Act* applies to tenancy agreements, rental units and other residential property. A tenancy agreement is defined in section 1 of the *Act* as “an agreement...between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities...” I find that the *Act* contemplates tenants having exclusive possession of the rental unit as section 28 of the *Act* states:

28 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

(a) reasonable privacy;

(b) freedom from unreasonable disturbance;

(c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29...

(d) use of common areas for reasonable and lawful purposes, free from significant interference.

(emphasis added)

Here, the rental unit would be the bedroom. The Applicant was not given exclusive possession of the rental unit as it was a shared space. The space was shared with someone placed there by the Society and not someone the Applicant chose to reside with. I do not find this to be the equivalent of a co-tenant or tenant-in-common situation. In the circumstances, I am not satisfied the parties entered into a tenancy agreement as that term is defined and contemplated in the *Act*. Therefore, I am not satisfied the *Act* applies to the parties and therefore decline jurisdiction.

Conclusion

I am not satisfied the *Act* applies to the parties. I decline jurisdiction and have no authority to decide 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 *Act*.

Dated: June 05, 2019

Residential Tenancy Branch