



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MT, OLC

Introduction, Preliminary and Procedural Matters

This hearing dealt with an Application for Dispute Resolution (“application”) pursuant to the Residential Tenancy Act (the “Act”) by the tenant for an order cancelling the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”), for an order requiring the landlord to comply with the Act, the Regulations, or the tenancy agreement, and for more time to file an application to dispute the Notice.

The tenant and the landlord attended the hearing.

The landlord’s evidence indicated that the rental unit in question was located on Westbank First Nations Land, which had its own Residential Premises Law. The landlord submitted that the laws of British Columbia do not apply to this dispute.

Therefore, the issue of jurisdiction was considered before proceeding with this hearing.

Issue(s) to be Decided

Does the Act apply to this dispute and do I have jurisdiction to resolve this dispute?

If so, is the tenant entitled to the other relief sought in his application?

Background and Evidence

The landlord confirmed their evidentiary submissions that the rental unit in question was located on the Westbank First Nation land. While the tenant agreed that this was the case, he submitted that he filed his application as he had received a 10 Day Notice on a Residential Tenancy Branch (“RTB”) form.

The landlord submitted that while the RTB has no authority to decide this dispute, the tenant was issued the Notice due to instructions.

Analysis

Residential Tenancy Policy Guideline 27 explains that the question of jurisdiction arises in two ways, one being is whether the RTB has constitutional authority to resolve a dispute.

Policy Guideline 27 A(1)(b) provides as follows:

Westbank Lands are Reserve Lands and identical to Indian Act reserve lands in relation to the limited application of provincial laws. The Westbank First Nation Self-Government Agreement delegates law-making authority over “landlord and tenant matters with respect to Westbank Lands and premises on Westbank Land.”

*The Westbank Residential Premises Law applies to all residential tenancies on Westbank lands therefore the Residential Tenancy Act and Manufactured Home Park Tenancy Act are entirely inapplicable to Westbank lands. **The Residential Tenancy Branch will decline jurisdiction on Westbank lands.*** (emphasis added)

Given the above, I find that I do not have constitutional jurisdiction under the Act and I decline to hear this dispute.

The parties are at liberty to seek the appropriate legal remedy to this dispute.

Conclusion

I find that I do not have constitutional jurisdiction to decide this dispute and, as a result, I have declined to hear the dispute.

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: July 2, 2019

Residential Tenancy Branch