



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Occupant's Application for Dispute Resolution. A participatory hearing, via teleconference, was held on December 9, 2019. The Occupant applied to cancel a Notice to End Tenancy, pursuant to the *Residential Tenancy Act* (the "Act").

The Property Owner was present at the hearing along with her legal counsel (collectively referred to as the Owner). The Occupant was also present at the hearing. All parties provided testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The occupant stated that our office does not have jurisdiction on this matter because there is no rental agreement, and this is a family law matter. The owner and the occupant agreed that the occupant never paid a security deposit, and did not sign a tenancy agreement. The parties agreed that the occupant did not pay any monthly rent to the owner. The parties elaborated and stated that the occupant is the owner's son, and the occupant is no longer on title as an owner of this property. The occupant stated that he was allowed to stay in the rental unit for free. The owner explained that the other 3 units in the building were rented out as AirBnB's, and her son (the occupant), was the

person responsible for turning over the AirBnB rentals for her business. The owner expressed that her son was supposed to keep 10% of the AirBnB revenue for himself, as payment for managing her rentals, and he was supposed to give her the remaining 90%. The occupant/son stated that this was not the arrangement but was not able to clearly express what the arrangement was. The parties are currently in dispute over what amounts the occupant was entitled to. The owner stated that this overall arrangement went sideways, and her son began to keep more and more of the revenue. The parties explained that they are in the midst of a court proceeding to settle the allegations around the missing funds.

I have considered the totality of the testimony provided at the hearing, and I find there is insufficient evidence to show that the occupant has an ownership interest in the property. As such I find he has provided insufficient evidence that I do not have jurisdiction on this basis.

However, I find there is insufficient evidence that the parties had a tenancy agreement, either, verbally or written. I note there was no security deposit paid, no monthly rent due. It appears there was an informal but contentious arrangement where the occupant was paid by the owner to turn over her vacation rental units in between guests.

In this case, I find there is insufficient evidence that there was a meeting of the minds with respect to any potential residential tenancy agreement. It is not clear what the parties agreed upon, as the testimony provided at the hearing is conflicting. A contract (rental agreement) must have (at a minimum) a few components for it to be binding: offer, acceptance, and consideration. In this case I find there is insufficient evidence that these components were in place, such that I could find there is a tenancy agreement in place (verbal or otherwise). In other words, I find there is insufficient evidence to establish that a tenancy agreement was in place, and therefore there is also insufficient evidence to establish that there is a tenancy under the Act. Given this, I find I must decline jurisdiction at this time.

Conclusion

The application is dismissed in full 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: December 09, 2019

Residential Tenancy Branch