



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METRO INN
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, pursuant to section 46;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 16 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he had authority to represent the landlord company named in this application at this hearing.

Preliminary Issue – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. An "interim decision," dated November 22, 2019, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlord was required to serve the tenant with a copy of the interim decision, the notice of reconvened hearing and all other required documents, within three days of receiving it, as outlined in the interim decision itself.

The landlord stated that the above required documents were sent to the tenant by registered mail on November 29, 2019. The landlord provided a Canada Post receipt and confirmed the tracking number verbally during the hearing. In accordance with sections 89 and 90 of the Act, I find that the tenant was deemed served with the landlord's application on December 4, 2019, five days after its registered mailing.

The landlord testified that his original direct request application for dispute resolution hearing package was sent to the tenant on November 21, 2019, by way of registered mail. The landlord provided a Canada Post receipt and confirmed the tracking number verbally during the hearing. In accordance with sections 89 and 90 of the Act, I find that the tenant was deemed served with the landlord's application on November 26, 2019, five days after its registered mailing.

Preliminary Issue – Jurisdiction to hear Matter

The landlord confirmed that this rental unit is located in a motel, used for vacation and travel accommodation between June and November each year and transitional housing between November and May each year, and excluded by sections 4(e) and (f) of the Act. He confirmed that the tenant did not sign a tenancy agreement, as the tenant can check in and out of the motel whenever he wants, without notice to the landlord. The landlord provided two registration cards for this hearing, which indicate when the tenant checked in and out of the motel.

The landlord indicated that his own business license states that the motel is a transient accommodation and a motel. The landlord claimed that he wanted an order of possession and a monetary order, since it was urgent, and the police refused to deal with the tenant. The landlord indicated that he was sure that the Residential Tenancy Branch ("RTB") could not deal with this matter.

Section 4(f) of the Act, outlines a tenancy in which the Act does not apply:

4 This Act does not apply to

- (e) living accommodation occupied as vacation or travel accommodation,*
- (f) living accommodation provided for emergency shelter or transitional housing,*

I find that the landlord provided undisputed evidence that this rental unit is provided on a temporary basis to the tenant for vacation or travel accommodation and transitional housing. The tenant did not sign a tenancy agreement. The tenant is allowed to check in and out of the motel, without notice to the landlord.

On a balance of probabilities and for the reasons stated above, the landlord provided undisputed evidence that this rental unit is living accommodation provided for vacation or travel accommodation and transitional housing. The *Act* specifically excludes living accommodation provided for transitional housing and occupied for vacation or travel accommodation. Accordingly, I find that I am without jurisdiction to consider the landlord's application because it is excluded by sections 4(e) and (f) of the *Act*.

For the above reasons, I find that this is not a matter within the jurisdiction of the RTB. Accordingly, I decline jurisdiction over the landlord's application. During the hearing, I notified the landlord about my decision and informed him that he could pursue the landlord's application at a Court of competent jurisdiction.

Conclusion

I decline jurisdiction over the landlord's application.

I make no determination on the merits of the landlord's application.

Nothing in my decision prevents either party from advancing their claims before a Court of competent 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: January 16, 2020

Residential Tenancy Branch