



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPN OPM OPL FF

Introduction

The Executor of the Estate filed this Application for Dispute Resolution. The participatory hearing was held, by teleconference, on January 6, 2020. The Executor applied for multiple remedies pursuant to the *Residential Tenancy Act* (the "Act").

The Executor and the Occupants both attended the hearing and provided testimony. The Occupants confirmed receipt of the Executor's application and evidence. The Occupants did not submit or serve any evidence.

Both parties 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 relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

During the hearing, it was explained by the Executor that this property is a home that was owned by the father of one of the Occupants, and the Executor (applicant). There are 7 children in total, who are named in the property owner's Last Will and Testament as beneficiaries. Their father passed away in February of 2019, and the estate now owns the home. The Executor stated that there is no written tenancy agreement, and he was unclear about whether a security deposit was paid or what monthly rent was set at.

The Executor confirmed that the Occupants have not given the estate any money in exchange for living there since last year (around May 2018). The Executor has sought to end the tenancy by mutual consent, and with a 2-Month Notice to End Tenancy for Landlord's Use. However, he has not issued any 10 Day Notices to End Tenancy for Unpaid Rent.

On the Executor's application, he indicated that he is trying to follow through on his father's wishes, to clean up the house, sell it, and divide the money between the 7 children, one of whom is an occupant. The Executor further stated that one of the occupants was supposed to do miscellaneous repairs but has not done so. The parties explained that the relationship has degraded, and although one of the occupants is willing to vacate, the other is not.

I note the owner of the house died on February 23, 2019, as per the Executor's application. It appears as though there were some loose arrangements for one of the occupants to do some work and repair to the house. Although the Landlord stated that they received some money in the spring of last year from the occupants, they were not clear on how much the occupants were paying, and under what terms. Neither party articulated what the agreement was. The Executor confirmed that the occupants have not paid any money to the estate since last spring, which appears to be not long after the property owner passed away. The parties agree there is no written tenancy agreement and were unclear about what monthly rent was or whether or not there was a security deposit paid.

I have considered the totality of the testimony provided at the hearing, and I find the Executor has provided insufficient evidence that there was a meeting of the minds with respect to any potential rental agreement. There is no written agreement, and it is not clear what the parties verbally agreed upon, what rent was set at, when it was due, whether it was fixed term, or month-to-month. A contract (rental agreement) must have (at a minimum) a few components for it to be binding: offer, acceptance, and consideration. Although there appears to be some loose arrangements where the Executor expected some repairs to be done by one of the occupants, and some money was expected to be paid by the Occupants (although not received for many months), in this case I find there is insufficient evidence that the parties had a valid tenancy agreement in place. Further I find there is insufficient evidence to establish that there is a tenancy under the Act. Given this, I find I must decline jurisdiction at this time.

It appears this may be a family law matter, so the parties may wish to seek remedies through a court of competent jurisdiction, should they be unable to resolve matters on their own.

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: January 06, 2020

Residential Tenancy Branch