



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, MNDCT, RP, RR, LRE, PSF, DRI, FFT, CNR

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on May 28, 2020. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the *Act*).

The Tenant appeared at the hearing, as did the owner, and her daughter. The owner of the property, who lives upstairs with her daughter (who is 18 years old), stated that there was a significant amount of confusion regarding the Tenant's application, because it was made against her daughter, who is not an agent or a Landlord. The owner stated that she is the Landlord, as per the Tenancy Agreement provided into evidence, and she manages all aspects of the tenancy. The owner/Landlord stated that she does not have an agent doing work on her behalf, and her daughter is still in school, so it is not appropriate that the Tenant file an application against her daughter.

Having reviewed this matter, I turn to the following portion of the Act:

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

I find there is no evidence to support that the owner's daughter is an agent of the Landlord/owner or that she works on behalf of the Landlord. I find the Tenant filed her application against the wrong party.

I further note the Tenant filed an amendment to try to change the name of the Landlord, to the actual owner, but she did not do this in time. The Rules of Procedure state the following:

4.6 Serving an Amendment to an Application for Dispute Resolution

As soon as possible, copies of the Amendment to an Application for Dispute Resolution form and supporting evidence must be produced and served upon each respondent by the applicant in a manner required by section 89 of the Residential Tenancy Act or section 82 of the Manufactured Home Park Tenancy Act and these Rules of Procedure.

The applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Amendment to an Application for Dispute Resolution form and supporting evidence as required by the Act and these Rules of Procedure.

In any event, a copy of the amended application and supporting evidence should be served on the respondents as soon as possible and must be received by the respondent(s) not less than 14 days before the hearing.

The Tenant could not recall when she served the amendment. The Landlord stated she received the amendment on May 18, 2020, to include her (the owner and Landlord) as a respondent. The Landlord stated she has been scrambling since, and it is not fair the Tenant file her amendment so late. Having reviewed this matter, I find the Tenant's amendment was not served in accordance with the Rules, and is not admissible for this proceeding. The Tenant's initial application was against the wrong party, and her amendment was not filed in a timely manner. Ultimately, I dismiss the Tenant's application, with leave to reapply. The Tenant must apply against the Landlord or the Landlord's agent.

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: May 28, 2020