



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, FFT

Introduction

This hearing was convened as a result of the Applicants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an Order for emergency repairs, and to recover the \$100.00 cost of their Application filing fee.

The Applicants, E.S. and G.M.C., and two agents for the Respondents, R.R. and V.R. ("Agents"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Applicants and the Agents were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Jurisdiction

Early in the hearing, the Agents indicated that there was no tenancy agreement, because the Applicants do not have a tenancy at the residential property. The Agent said:

Another one of his friends, [D.], came to pick cherries on the farm. After [D.] left in September 2019, [E.S.] broke in and started living there without our permission. Dad went to India. We were scared of them. Dad went to India in October 2019, and came back in 2020. [E.S.] was never a tenant. Dad said to

stop bringing illegals there. After my Dad had to go to India, [E.S.] brought six people there to live. There is no tenancy.

The Applicant, E.S., said:

It's all lies. First, she was not there when we had the verbal agreement with her father. Then I put my stuff in it. If she wants proof since 2018, we rent the place together. . . . [D.] will say so; I can't find him, but if I find him, that's what he'll say. [The Respondent owner] wants us to pay [rent in] cash.

Even the electricity before that it was in the name of [D.], and he was supposed to go. [W.] transferred the electricity in his name. We paid it in June. Everyone knows me. In 2019, somewhere in beginning of the year - even this year - the Landlord called the police to complain about me; they came here. If I was living here illegally, they wouldn't let me stay. I received my mail. The landlord came with me to the post office, open an account to have a key to the mail. I've received my mail since two years.

The Agent said that her family bought the land in March 2018. She said: "He kept saying that they have been living there for three years. It's only been two years that we've had the farm." She went on:

The trailer was actually made for our use for the farm. [D.] said he would like to clean it up, and he and his wife lived there for a bit. We asked them to leave right after. Also, the people there are not even living in the trailer. They're living in their vehicles. Also, I'd like to mention to clear the thing about the mail key, [D.] had a kid who was sick, and his wife ordered something from Amazon, but she forgot to return the mail key she borrowed from Dad.

They put our trailer on fire. They've been threatening us; we're three daughters. They have never paid rent. We have workers in the summer. They stay on the property, and they work for us and then move. My Dad never gave [E.S.] permission to live there. [E.S.] would visit [D.], who left, but [E.S.] never left. By the time my Dad came back, [E.S.] ruined everything. They go to other places to work like Summerland. Then they come back.

I asked the Agent about the Applicants' rent payments.

He never did, otherwise there would be tenancy agreement. My Dad has been

living in Canada for 10 year. We have been legally here. We wouldn't use just cash. We want justice, because this is not safe for our neighbours. My neighbour is scared to come home. [The Applicants] are always having parties there. There are so many things. Their dogs are on our property. We can't even pick peaches from that side. We have called the RCMP a couple times. [E.S.] even threw a rock at my Dad. They stop my Dad from working on the farm. The peaches are from that side where they live. My Dad got a notice from the RCMP not to talk to them. Dad doesn't speak English. Also, I've asked [E.S.] a couple times to leave or we'd call the RCMP.

Even now an emergency eviction won't do, because they don't even have a tenancy agreement. Again, they are not our tenants. We are not supposed to do anything for them. They should just take away their vehicles and let us live.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

I find that the Applicants' evidence is inconsistent with other facts, in that they claimed to have lived there longer and had a tenancy with the Respondents longer than the Respondents have owned the property. Further, they did not deny having moved in after their friend, D., moved out. They said they had an oral tenancy agreement with the Agents' father, even though he does not speak English.

I find there is insufficient evidence before me that there was a meeting of the minds with respect to a tenancy agreement. A contract, such as a tenancy agreement, must have particular components to be binding on the parties: offer, acceptance, and consideration. I find there is insufficient evidence of these components being in place, such that a tenancy agreement (verbal or otherwise) exists. In other words, I find there is insufficient evidence to establish that there is a tenancy under the Act in this set of circumstances. Accordingly, I decline jurisdiction to hear this matter. The Application is dismissed in full without leave to reapply.

Conclusion

The Applicants are unsuccessful in this matter, because there is insufficient evidence to establish that a tenancy exists between the Parties. The Application is dismissed wholly without leave to reapply.

The Applicants are cautioned that the Respondents may show this RTB Decision to the police for assistance in repossessing their property.

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: August 20, 2020

Residential Tenancy Branch