



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Application submitted by KB: CNC, MNDCT
Application submitted by GH: OPC

Introduction

This hearing was for crossed applications that dealt with KB's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Act*; and
- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (*Regulation*) or tenancy agreement, pursuant to section 67 of the *Act*.

This hearing also dealt with GH's application pursuant to the *Act* for an order of possession under a One Month Notice to End Tenancy for Cause (the *Notice*), pursuant to sections 47 and 55 of the *Act*.

I left the teleconference connection open until 11:13 A.M. to enable KB to call into this teleconference hearing scheduled for 11:00 A.M. KB did not attend the hearing. GH and advocate RO attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that GH, his advocate and I were the only ones who had called into this teleconference.

Preliminary Issue – KB's application dismissed

GH called into this teleconference at the date and time set for the hearing of this matter. Although I waited until 1:41 P.M. to enable KB to connect with this teleconference hearing scheduled for 1:30 P.M., KB did not attend. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also

confirmed from the online teleconference system that GH, his advocate and I were the only persons who had called into this teleconference.

Rules 7.1 and 7.3 of the Rules of Procedure provide as follows:

Rule 7 – During the hearing

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Accordingly, in the absence of any attendance at this hearing by KB, I order KB's application dismissed without leave to reapply.

GH's application – Jurisdiction

At the outset of the hearing RO affirmed KB moved into GH's property approximately five years ago. GH helped KB because she needed a place to stay for a few weeks and she is not a tenant. GH and KB have shared the bathroom and a kitchen since KB moved in.

Section 04 of the Act states:

This Act does not apply to:

[...]

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

Thus, pursuant to section 4(c) of the Act, I have no jurisdiction to hear this application.

Conclusion

I dismiss KB's application without leave to reapply.

I decline jurisdiction to consider the GH's application.

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: October 06, 2020