



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AMICA ON THE GORGE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI

Introduction

The tenant applies to dispute a rent increase. The landlord argues that the tenancy is excluded from the operation of the *Residential Tenancy Act* [RTA] as the rental unit is a designated “assisted living” accommodation under the *Community Care and Assisted Living Act*.

Issue(s) to be Decided

Is the accommodation excluded from the RTA? If not, the rent increase is not in conformity with the requirements of the RTA and would be invalid.

Background and Evidence

The rental unit is a two bedroom apartment on the fourth floor of what, to an outside observer, might be seen as a four storey apartment building. The fourth floor is occupied by persons who do not require an particular assistance to carry on their lives.

The second floor of the building houses persons who require significant assistance, whether due to physical or cognitive state.

The third floor appears to be a combination of independent living and assisted living accommodation.

The tenancy started in August 2018. The rent is \$3997.00 per month. The tenant pays an extra amount with her rent for “hospitality” services, which permit her to take three meals per day on the mail level of the building, plus other amenities.

The tenant testifies that she has no need for the landlord’s assistance in her life and would prefer not to be identified as a person living in an “assisted living” accommodation. She says that the rental unit was marketed to her as an independent living accommodation. She produces floor plans published by landlord which show the fourth floor, her floor, to be designated “independent living.”

The tenancy agreement refers to “senior” living but does not designated or indicate that the rental unit is an assisted living accommodation, though in the fine print the document indicates that someone might come to inspect the suite pursuant to the *Community Care and Assisted Living Act*.

Counsel for the landlord indicates that the tenancy is advertised as an “age in place” accommodation where, as people age and their health declines, they can transition from independent living to buying some additional support from the landlord, to buying extensive medical and living support and be moved to more appropriate suite below.

Counsel produces documentation that shows that the entire building have been designated as assisted living accommodation under the *Community Care and Assisted Living Act*.

The tenant does not dispute the designation of her suite as assisted living accommodation under the *Community Care and Assisted Living Act*.

Analysis

Section 4(g)(i) of the *RTA* states:

This Act does not apply to

(g) living accommodation

(i) in a community care facility under the [Community Care and Assisted Living Act](#),

The tenant's living accommodation is, in fact, living accommodation in a community care facility under that Act and so the *RTA* does not apply. The tenant is not able to call on the dispute resolution mechanism of the *RTA* to resolve her complaint.

Conclusion

The tenant's application must be dismissed.

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: December 19, 2020

Residential Tenancy Branch