



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OLC, AAT

### Introduction

The Applicant filed an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) for the cancellation of a Notice to End Tenancy, the landlord’s compliance with the legislation and/or the tenancy agreement, and an allowance for their own access to the rental unit. The matter proceeded by way of a hearing pursuant to s. 74(2) on June 7, 2021. In the conference call hearing I explained the process and provided each attending party the opportunity to ask questions.

The Applicant and Respondents both attended the hearing, and I provided the opportunity for each to present oral testimony and make submissions during the hearing.

### Preliminary Issue – Jurisdiction

The Notice of Dispute Resolution lists the Respondents as the landlords in this matter. The Respondents stated they had no contractual relation with the Applicant here, and never accepted rent from the Applicant in any landlord/tenant capacity.

The Applicant provided that they had an agreement with a third party who was not in attendance, and not named as a Respondent in this hearing. This was a living arrangement in place since October 1, 2016, and the Applicant here paid rent for a room at the rental unit. This was a shared kitchen-bathroom situation. The Applicant here was clear that they never signed any tenancy agreement with that third party.

The Applicant was given a document which specified a very short notice for them to move out of the room in February 2021. This was because of an order of the local fire

authorities who made the conclusion that there were too many occupants in the property. After this, the Applicant signed a document under duress stating that they agreed to the end of the tenancy. They moved out from the room on March 1, 2021.

The Respondents are the owners of the rental unit address. They provided the tenancy agreement they have with the third party. They confirmed details regarding the order of the fire department to reduce the number of occupants at the property.

The *Act* defines the term 'landlord' as follows:

"**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

The *Act* defines "tenancy agreement" as

an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a license to occupy a rental unit.

Here, the third party has a tenancy agreement with the Respondents, who are therefore that third party's landlords. The Respondents provided a copy of that tenancy agreement.

There is no evidence that the third party was acting as an agent on behalf of the landlord; therefore, the definition of landlord in the *Act* does not support a landlord/tenant relationship between the third party and the Applicant here. The Applicant here was an occupant/roommate, with no rights or responsibilities under the *Act*.

As a result, the Respondents in this matter do not meet the definition of a landlord, pursuant to section 1 of the *Act*. I find the Applicant here is not a tenant of the Respondents; rather, they were another occupant, or a roommate.

Based on these facts, and an application of the legislation, I do not have jurisdiction to hear this Application.

Conclusion

Having declined jurisdiction to hear this matter, I dismiss this Application for Dispute Resolution in its entirety, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: June 7, 2021

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Residential Tenancy Branch