



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the applicant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The applicant has applied to cancel a 1 Month Notice to End Tenancy for Cause.

The applicant and the respondent attended the teleconference hearing. The parties were affirmed. The hearing process was explained to the parties and an opportunity to ask questions was provided to both parties. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

The parties also confirmed their respective email addresses at the outset of the hearing and were advised that the decision would be emailed to them.

As jurisdiction appeared to be an issue based on wording related to "room" and "kitchen", I will first determine if the Act applies to this living arrangement.

Issue to be Decided?

- Does the Act apply to this living arrangement?

Background and Evidence

During the hearing, the parties confirmed that the applicant rents a room inside of a home and did not dispute that the respondent owned the home. The tenancy agreement was submitted in evidence as were the House Rules, the latter of which reads in part:

8) Room will have to be kept reasonably clean and bedsheets should be washed often especially in summer.

11) All bedroom doors should be shut closed at all times....

The respondent testified that they rent four bedrooms in the basement of the home that they own.

Analysis

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

Section 4(c) of the Act applies and states:

What this Act does not apply to

4 This Act **does not** apply to

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

[Emphasis added]

Based on the above, I find the Act does not apply to this living arrangement as I accept the undisputed testimony of the parties that confirmed the applicant is renting a bedroom in the basement of the home owned by the respondent.

Based on the above, I refuse jurisdiction to hear this dispute as I find the Act does not apply to this living arrangement.

I note the filing fee was already waived for this matter.

Conclusion

The application has been refused due to lack of jurisdiction as per section 4(c) of the Act.

This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 2, 2021

Residential Tenancy Branch