



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. A participatory hearing, via teleconference, was held on July 26, 2021. The Landlord applied for the multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord and the Tenant both attended the hearing and provided affirmed testimony. Both parties confirmed receiving each other's documentary evidence and no issue was raised with respect to service of those documents.

All parties provided testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

At the outset of the hearing, the "Tenant" as named on this application brought up the issue of jurisdiction. More specifically, the Tenant stated he is not actually a "Tenant", but rather he is a part owner of the rental unit listed on this application.

The "Landlord" as named on this application acknowledged that his wife and his son are part owners of the rental property, which consists of a side-by-side duplex. K.S. who was named as a Tenant on this application lives in one side of the duplex, and the other

half is rented out to other individuals. K.S. stated that the rent collected from the other half of the duplex is split, in accordance with the ownership split, between he and his mother, the other registered owner. The Landlord kept reiterating that he contributed the majority of the cash to buy this duplex house in the 1990's, and opines that his son (named as the Tenant on this application) has taken advantage of the situation, and has slowly increased his ownership stake in the property. The Landlord feels he should be considered the Landlord and that he should retain control of the property, despite K.S. (his son and the person named as the Tenant) having partial ownership of the unit.

K.S. pointed to the documentation he provided to support his partial ownership in the property. He provided numerous documents including a copy of his mortgage on the property, and a copy of the property tax statement from the City of North Vancouver for 2021. The documents list K.S. as the owner for both sides of the duplex, one of which is the subject rental unit for this application.

I note the following portion of the Act:

What this Act applies to

2 (1) Despite any other enactment but subject to section 4 [what this Act does not apply to], this Act applies to tenancy agreements, rental units and other residential property.

(2) Except as otherwise provided in this Act, this Act applies to a tenancy agreement entered into before or after the date this Act comes into force.

I also note the following definitions under the Act:

"tenancy agreement" means 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 licence to occupy a rental unit;

"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;*

(b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);

(c) a person, other than a tenant occupying the rental unit, who

(i) is entitled to possession of the rental unit, and

(ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;

(d) a former landlord, when the context requires this;

After reviewing the totality of the testimony and evidence presented, I find there is sufficient evidence to show that the person named on the application, K.S., is at least a part owner of the subject rental unit. Given his ownership interest in the property I find he is not a Tenant, as defined by the Act. Further, I find there is insufficient evidence of a tenancy agreement under the Act between the parties named on this application.

I decline jurisdiction on this matter, as I find there is no Landlord/Tenant relationship, no tenancy agreement, and the Tenant named on this application has an ownership interest, and is not a "Tenant".

Conclusion

The application is dismissed in full without leave to reapply.

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: July 26, 2021

Residential Tenancy Branch