



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE, MNDCT, LAT

Introduction

This hearing was convened as a result of the Applicants' two Applications for Dispute Resolution ("Applications") under the *Residential Tenancy Act* ("Act"), to cancel a One Month Notice to End Tenancy for Cause dated June 20, 2021; to suspend or restrict the Landlord's right to enter; for a monetary order for damage or compensation under the Act; and for authorization for the Applicants to change the lock.

The Respondent, C.C., appeared at the teleconference hearing and gave affirmed testimony, but no one attended on behalf of the Applicants. The teleconference phone line remained open for over 20 minutes and was monitored throughout this time. The only person to call into the hearing was the Respondent, who indicated that she was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Respondent.

The Applicants were provided with copies of the two Notices of a Dispute Resolution Hearing on July 13 and 14, 2021, both for today's proceeding; however, they did not attend the teleconference hearing scheduled for these Applications on October 19, 2021 at 9:30 a.m. (Pacific Time). The phone line remained open for 24 minutes and was monitored throughout this time. The only person to call into the hearing was the Respondent, who indicated that she was ready to proceed.

Rule 7.1 of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules") states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. The Respondent and I attended the hearing on time and were ready to proceed, and there was no evidence before me that the Parties had agreed to reschedule or adjourn the matter; accordingly, I commenced the hearing at 9:30 a.m. on October 19, 2021, as scheduled.

Rule 7.3 states that 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 reapply. The teleconference line remained open for

24 minutes, however, neither the Applicants nor an agent acting on their behalf attended to provide any evidence or testimony for my consideration.

I explained the hearing process to the Respondent and gave her an opportunity to ask questions about it. During the hearing, the Respondent was given the opportunity to provide her evidence orally and to respond to my questions.

Preliminary and Procedural Matters

The Applicants provided the Parties' email addresses in the Application and the Respondent confirmed her address in the hearing. She also confirmed her understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

I advised the Respondent that she is not allowed to record the hearing and that anyone who was recording it was required to stop immediately. The Respondent confirmed that she was not recording the hearing.

As a preliminary issue, the Respondent's testimony indicated to me that I may not have jurisdiction in this matter. In the event that I find that jurisdiction ends the matter, I refer to the Parties as Applicants and Respondent.

The Respondent testified that the Applicant, M.O., rents a room from the house that she rents from the owner of the residential property. The Respondent said that she shares a bathroom and kitchen with the Applicants.

Issue(s) to be Decided

- Does the RTB have jurisdiction to hear this matter under the Act?

Background and Evidence

The Respondent said that that the Applicant moved into a room in the basement of the residential property on April 1, 2021, and that he pays her a monthly rent of \$1,600.00, due on the first day of each month. The Respondent was not sure at the time if the Applicant had paid a security deposit or a pet damage deposit. She said she would check her paperwork and determine this before the Applicants move out.

The Respondent said that the Applicant, M.O., told her that he was moving out of the residential property by November 1, 2021.

Analysis

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

In order for an applicant to proceed in a dispute resolution hearing, the applicant must show that the Act applies to their situation. However, given the Respondent's testimony, I find that pursuant to section 4 (c) of the Act, I do not have the jurisdiction to decide this matter on the Parties' behalf. Section 4 (c) states that the Act *does not apply* to "...living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation". This accommodation is outside of the Act, and therefore, I have no jurisdiction to consider this matter.

For further information on this matter, I refer you to RTB Policy Guideline #19 ("PG #19"): "Assignment and Sublet", includes the following:

Occupants/roommates

Disputes between tenants and landlords regarding the issue of subletting may arise when the tenant has allowed a roommate to live with them in the rental unit. The tenant, who has a tenancy agreement with the landlord, remains in the rental unit, and rents out a room or space within the rental unit to a third party. However, unless the tenant is acting as agent on behalf of the landlord, if the tenant remains in the rental unit, the definition of landlord in the Act does not support a landlord/tenant relationship between the tenant and the third party. The third party would be considered an occupant/roommate, with no rights or responsibilities under the *Residential Tenancy Act*.

. . .

Occupants should be aware that the director's authority is limited to the relationship between the original tenant and their landlord.

Accordingly, I find that I do not have jurisdiction under the Act to resolve this matter for the Parties. The Parties may wish to contact the Civil Resolution Tribunal for assistance in resolving this matter.

Given that I have declined jurisdiction in this matter on behalf of the RTB Director, I note that **the police will be able to assist the Respondent** in this matter, if necessary.

Conclusion

I decline to rule on this matter, as I have no jurisdiction to consider these Applications of occupants/roommates. The Parties were referred to the Civil Resolution Tribunal for assistance in resolving their dispute.

The Applications are dismissed without leave to reapply for lack of jurisdiction.

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: October 19, 2021

Residential Tenancy Branch