



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDCT, CNC, PSF, RR, LRE, PSF, FFT

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Applicant applied for a monetary Order for money owed or compensation for damage or loss; for a rent reduction, for an Order requiring the Respondent to provide services or facilities; for an Order suspending or setting conditions on the Respondent's right to enter; to cancel a One Month Notice to End Tenancy for Cause; and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

The Applicant stated that on October 08, 2021 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on September 27, 2019 and October 07, 2019 was sent to the Respondent, via registered mail. The Respondent acknowledged receiving this evidence and it was accepted as evidence for these proceedings and the hearing proceed in the absence of the Landlord.

On November 08, 2021 the Respondent submitted evidence to the Residential Tenancy Branch. The Respondent stated that this evidence was served to the Applicant, via email, on November 08, 2021. The Applicant acknowledged receiving this evidence on November 08, 2021, although she argues it was not properly served to her as the Respondent did not have her permission to serve documents to her by email. As the Applicant acknowledged receiving this evidence by email, I find it was sufficiently served to her, pursuant to section 71(c) of the *Residential Tenancy Act (Act)*.

The Applicant also argues that the Respondent's evidence was not served in accordance with the timelines establish by the Residential Tenancy Branch Rules of Procedure. I find that the Respondent's evidence was served to the Applicant in

accordance with the timelines established by rule 3.15 of the Rules of Procedure, which requires respondents to serve evidence to the applicant not less than 7 days before the hearing.

As the Respondent's evidence was sufficiently served to the Applicant and it was served more than 7 days before the hearing, it was accepted as evidence for these proceedings.

On November 09, 2021 the Applicant submitted evidence to the Residential Tenancy Branch. The Applicant stated that this evidence was not served to the Respondent. As the evidence was not served to the Respondent, it was not accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant, with the exception of legal counsel, affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant assured me they would not record any portion of these proceedings.

Issue(s) to be Decided

Do I have jurisdiction over this matter and if so, is the Applicant entitled to any of the claims outlined in the Application for Dispute Resolution?

Background and Evidence

The parties agree that the Applicant rents property and a barn from the Respondent; that she operates a business on the property; and that she does not live on the rented property.

Analysis

The *Residential Tenancy Act (Act)* does not apply to commercial tenancies.

On the basis of the undisputed evidence, I find that the Applicant operates a business on this rented property and that she does not reside on the property. I therefore find

that this is a commercial tenancy, over which I have no jurisdiction. I therefore am unable to proceed with this hearing due to lack of jurisdiction, as outlined by Residential Tenancy Branch Policy Guideline 14.

Conclusion

I do not have jurisdiction over this commercial tenancy. As such, the entire Application for Dispute Resolution is declined.

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

Dated: November 19, 2021

Residential Tenancy Branch