



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This hearing was convened as a result of the applicants' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The applicants applied for a monetary order in the amount of \$1,100.00 for monetary compensation for money owed under the Act.

The respondent attended the teleconference hearing and was affirmed. The applicants did not attend the hearing. An opportunity was provided to the respondent to ask questions.

Preliminary and Procedural Matters

The respondent was 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 respondent was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the respondent was 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. The respondent did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the respondent confirmed their email address listed on the application.

Jurisdiction

The respondent testified that the rental unit was a shop and falls under a commercial tenancy, not a residential tenancy. Therefore, the respondent

submits that the Act does not apply to this arrangement as the shop was never designed for residential use and was used as a commercial shop space only.

Analysis

Based on the above, I find the Act does not apply to this matter as I find the evidence from the respondent supports that this was an agreement to rent a shop and not a residential tenancy agreement. As a result, I find the applicants failed to attend the hearing to provide any evidence to contradict the respondent who has satisfied me that the Act does not apply to matter before me.

Based on the above, I refuse jurisdiction to hear this dispute as I find the Act does not apply to the rental of a commercial shop. I find there is insufficient evidence before me to support that a tenancy agreement was formed for residential purposes.

I find the parties do not have a landlord and tenant relationship under the Act.

Conclusion

The application has been refused due to lack of jurisdiction under the Act. I do not grant leave to reapply as a result.

This matter does not relate to a residential tenancy agreement under the Act as the evidence before me supports that the applicants were renting a shop under a commercial tenancy agreement. This decision will be emailed to both parties at the email addresses listed on the application.

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: December 1, 2021

Residential Tenancy Branch