



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC-MT, LRE

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy, filed on December 8, 2021. In this application for dispute resolution, the Applicant sought:

- an order to cancel a One Month Notice to end tenancy for cause, dated November 25, 2021 (the One Month Notice), requesting more time to dispute; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit.

The Applicant attended the hearing; the Respondent did not. The teleconference was left open for the duration of the 55-minute hearing. The Applicant was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Applicant testified they served their Notice of Dispute Resolution Proceeding on the Respondent by an email address agreed upon for service, on December 19, 2021. The Applicant testified they served their evidence on the Respondent via the same email address, sending part of the evidence on December 23, 2021, and the remainder on December 26, 2021. Based on the Applicant's affirmed testimony, I find the Applicant served the Respondent in accordance with section 89 of the Act.

The Applicant testified the Respondent was aware of the hearing, and the Applicant did not know why the Respondent did not attend.

Preliminary Matters

Severing of Unrelated Issues

Residential Tenancy Branch Rule of Procedure 2.3 states:

2.3 Related issues Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As it is not related to the more urgent claim, the dispute of the One Month Notice, I dismiss the Applicant's petition for an order to suspend or set conditions on the landlord's right to enter the rental unit.

Jurisdiction

The Applicant's testimony indicated to me that the living arrangement may not be subject to the *Residential Tenancy Act*.

- Issue To Be Decided

Does the Residential Tenancy Branch have jurisdiction to hear this matter?

- Background and Evidence

I have reviewed the evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Applicant testified that he is "on disability," and the Respondent, his mother, gets his shelter payment, plus an additional \$40.00, directly from the government. The Applicant testified he did not pay a security deposit, and he does not think a tenancy exists.

The Applicant testified he has lived in the unit for almost 15 years, and did not know his mother considered herself a landlord until recently. The Applicant testified that when his mother "had cancer, and thought she was going to die, she bought the place for [him]." The Applicant testified his mother "bought the place in trust – she is the trustee." The Applicant testified he learned this only recently, and he did not know what it means. The Applicant testified the unit is owned by the trust in his name. The Applicant testified that he "does not qualify for BC Housing" because the trust is in his name, and is an asset.

- Analysis

Section 2 of the Act includes:

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.

As the Applicant has provided affirmed undisputed testimony that his residence is owned by a trust in his name, I find the living arrangement is not contemplated by the Act, and therefore does not fall within the jurisdiction of the Residential Tenancy Branch. Therefore, I decline to make a further decision on the matter.

Conclusion

I decline to rule on this matter, as I have no jurisdiction to consider it.

The Application is dismissed 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: January 19, 2022

Residential Tenancy Branch