



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, MNETC, FFT

Introduction

The Applicant filed their Application for Dispute Resolution (the “Application”) on December 6, 2021 seeking compensation relating to an end of tenancy, the return of personal property, and return of the filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on March 22, 2022.

In the conference call hearing I explained the process and offered each party the opportunity to ask questions. The Applicant and Respondents (hereinafter the “Respondent”) both attended the hearing, and each was provided the opportunity to present submissions.

The Respondent confirmed they received notice of the hearing. The Applicant confirmed their receipt of the Respondent’s prepared evidence. On this basis, the hearing proceeded.

Preliminary Issue - Jurisdiction

The Notice of Dispute Resolution shows the Applicant as the ‘tenant’ and the Respondent as the ‘landlord’ in this matter. The Applicant provided that there was a verbal agreement between the parties in place. In the hearing, the Respondent denied this was a tenancy.

Both parties provided details in the hearing to establish that the Applicant moved into the secondary house at the Respondent’s property in August 2021. The amount of money paid by the Applicant on a weekly basis was dependent on the work they

completed on the property for the Respondents. They would typically invoice the Landlord for work completed above a weekly rate of \$200. In the hearing the Applicant expressed this as an arrangement for the Respondent to pay “anything over and above \$20 per hour.”

By November, a planned family event led the Respondent to notify the Applicant that the arrangement was over. In that month according to the Respondent, the Applicant did not perform any labour and did not submit an invoice for payment.

The *Act* section 1 defines the following:

“tenancy” means a tenant’s right to possession of a rental unit under a tenancy agreement

“tenancy agreement” means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit . . .and includes a license to occupy a rental unit

The *Act* section 2 specifies that the *Act* applies to “tenancy agreements, rental units and other residential property”. There is a presumption that a tenancy has been created if a tenant pays a fixed amount for rent. Another distinguishing feature of a tenancy agreement is the payment of a security deposit. From weighing the evidence and considering the submissions of both parties, I find the situation is not that of a residential tenancy.

For one, what would normally be described as “rent” in this situation was dependent on work completed. It was not described by what standard a completion of work was understood between the parties. I find the completion of work was highly variable, and not at a set-labour amount. Rather, this was based on the completion of non-defined jobs at the property that had no set scale of wage amounts for their completion.

Further, the Applicant here provided that they never paid a deposit of any kind. This would normally be a consideration in the formation of a contract between the parties, here absent.

I find the parties had a work-for-accommodation arrangement, and occupancy was given to the Applicant because of generosity rather than the business of renting a unit to a tenant. As the Respondent described it, the Applicant was staying as a guest in a beach house and paying for that through labour.

I find this was an arrangement between the parties outside of the jurisdiction of the *Act*. I find it more likely than not that this living arrangement is not that of a landlord-tenant agreement. I am not satisfied that the *Act* applies here; therefore, I decline to resolve this dispute between the parties.

In sum, the provisions of the *Act* do not apply to this situation. Based on these facts and consideration of the *Act*, I do not have jurisdiction to hear this Application.

Conclusion

Having declined to hear this matter, I dismiss this Application for Dispute Resolution in its entirety, without leave to reapply.

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

Dated: March 22, 2022

Residential Tenancy Branch