



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding EVO HOMES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC PSF LAT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A hearing by telephone conference was held on March 17, 2022. The Tenants applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the *Act*).

The Landlord/Respondent did not attend the hearing. However, the Tenants/Applicants, N.H. and S.M., both attended the hearing and provided affirmed testimony. The Tenants were asked how they served their application and Notice of Dispute Resolution Proceeding to the Landlord, and they explained that they have never met the Landlord, nor do they know much about who owns the property. As a result, N.H. and S.M. had to do a title search on the property to find out who the owner was, and what their mailing address is. The Tenants stated they filed their application against, and sent the Notice of Dispute Resolution Proceeding to the owner, as laid out on the title search document, at the listed mailing address.

Preliminary Matters – Jurisdiction

One of the Tenants/applicants, S.M., stated that he moved into the rental house sometime in August 2021. S.M. stated that he found out about this property through another individual, D.B., who was already a Tenant at the rental property, and had been for several months. S.M. stated that when he moved in, he paid his share of the rent to the original Tenant, D.B., for August, September and October 2021. Then, another individual, J.G., moved into the rental house in October 2021. And in November 2021, the other Tenant/named applicant for this proceeding, N.H., moved in. The two tenants/named applicants for this proceeding paid their share of the rent to either J.G. or D.B. in the fall of 2021.

However, the relationship became acrimonious in the late fall, leading to a breakdown in household dynamics. N.H. and S.M. stated that one of the other Tenants attacked one of them with an axe and the police became involved. N.H. and S.M. also stated that shortly thereafter, the original Tenant, D.B., was arrested. N.H. and S.M. stated that there were many issues with theft, drug use, and overt violence, which led to police involvement, criminal charges, and the degradation of the living arrangement. N.H. and S.M. stated that there are ongoing criminal charges against the original Tenant, D.B., as well as another Tenant, J.G.

N.H. and S.M. stated that they have never dealt with or interacted with the Landlord/owner, and only ever dealt with the original Tenant, D.B., when paying rent and arranging the move in. Since the relationships between N.H. and S.M. and the original Tenants have gone sideways, N.H. and S.M. are unsure how to proceed to restore their peace and quiet, which is why they filed this application.

I have considered the totality of the situation, and the explanation provided by the applicants. I note there is no written tenancy agreement provided into evidence, and there is insufficient evidence that there was any contractual relationship between the applicants, N.H. and S.M., and the owner. I note the original Tenant, D.B., was already living in the rental unit for several months under a previously established tenancy agreement with the owner when N.H. and S.M. moved in. There is no evidence to show that a new tenancy agreement was signed or amended after N.H. and S.M. moved in with D.B.

After N.H. and S.M. moved in, they paid rent to the original Tenant, not to the Landlord. It appears it was up to the original Tenant to pay rent for the entire house to the Landlord. I find it more likely than not that N.H. and S.M. were roommates of the original Tenant, D.B. I find N.H. and S.M. are occupants and are not Tenants as laid out under the Act and in the Policy Guidelines.

The following excerpts from the Policy Guidelines may be helpful. Residential Tenancy Policy Guideline # 13 Rights and Responsibilities of Co-tenants is intended to help the parties to an application understand issues that are likely to be relevant. The Guideline provides an explanation of the difference between a Tenant, a co-tenant, Tenants in Common and Occupants.

Tenant

A Tenant is the person who signed the tenancy agreement. Co-tenants are two or more Tenants who rent the same property under the same tenancy agreement. Co-tenants are jointly responsible for meeting the terms of the tenancy agreement and have equal rights under the tenancy agreement.

Tenants in Common

Tenants in common are Tenants who share the same premises or portion of premises under separate tenancy agreements with a Landlord. A Tenant in common has the same rights and obligations as an ordinary tenant with a separate tenancy, and is not responsible for debts or damages relating to the other tenancy.

Occupants

Where a tenant allows a person who is not a tenant to move into the premises and share the rent, the new occupant has no rights or obligations under the tenancy agreement, unless all parties agree to enter into a tenancy agreement to include the new occupant as a tenant.

[my emphasis added]

Residential Tenancy Policy Guideline #19 provides an explanation of Occupants/Roommates. The Guideline provides:

If there is no landlord/tenant relationship, the Act does not apply. Roommates and landlords may wish to enter into a separate tenancy agreement to establish a landlord/tenant relationship between them or to add the roommate to the existing tenancy agreement in order to provide protection to all parties under the legislation.

After considering the policy guidelines and the testimony of the parties, I find that the Applicants for this proceeding do not meet the definition of Tenants because there is insufficient evidence to show that they ever entered into a signed tenancy agreement with the owner of the rental property. The applicants are occupants with no rights or responsibilities under the Act.

Since the Applicants are occupants and are not Tenants under the Act, I find they have no legal authority to bring forward an application against the owner of the property. I have no jurisdiction to hear this dispute. The Application for Dispute Resolution is dismissed without leave to reapply.

Conclusion

I find I have no jurisdiction to hear the dispute. The Application for Dispute Resolution 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: March 17, 2022

Residential Tenancy Branch