



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR DRI RPP

Introduction

This hearing dealt with an application pursuant to the *Residential Tenancy Act* (the “Act”) for:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order regarding a disputed additional rent increase pursuant to section 43;
- an order requiring the landlord to return the tenant’s personal property pursuant to section 65;

The hearing was conducted by conference call. The respondent did not attend this hearing, although I waited until 9:47 a.m. in order to enable the respondent to connect with this teleconference hearing scheduled for 9:30 a.m. The applicant attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

At the outset of the hearing, a jurisdictional issue was raised by the Arbitrator as the application listed the same address for both the applicant and respondent.

Pre-liminary Issue

Do I have jurisdiction over this matter?

Background and Evidence

The applicant confirmed that this rental unit was shared accommodations with the respondent who is the owner of the property. The applicant rented a bedroom downstairs and the respondent resided upstairs. The applicant testified that the respondent lived in the house most of the time. The applicant testified that he shares a

kitchen with the respondent upstairs. There is no tenancy agreement on file, only a shelter information form completed for the Ministry of Social Development.

Analysis

Before making any finding on the merits of the claim, I must determine if I have jurisdiction under the Act over this matter.

Section 4(c) of the *Act* stipulates that the *Act* does not apply to:

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

The applicant testified that he shared kitchen facilities with the respondent who is the owner of the accommodation. Therefore, I find that the Act does not apply to this living accommodation.

Conclusion

I find that I do not have jurisdiction over this matter.

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: May 31, 2022

Residential Tenancy Branch