



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE

Introduction

This hearing dealt with the Applicant's application under the *Residential Tenancy Act* (the "Act") for:

- cancellation of a One Month Notice to End Tenancy for Cause pursuant to section 47; and
- an order suspending or setting conditions on the Respondent's right to enter the rental unit pursuant to sections 29 and 70(1).

The Respondent attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, and to make submissions.

The Applicant did not attend this hearing. I left the teleconference hearing connection open until 9:40 am in order to enable the Applicant to call into the hearing scheduled to start at 9:30 am. I confirmed that the correct call-in numbers and participant code had been provided in the notice of dispute resolution proceeding. I used the teleconference system to confirm that the Respondent and I were the only ones who had called into the hearing.

The Respondent did not raise any issues with respect to service of documents.

Preliminary Matter – Applicant's Non-attendance

Rule 7.3 of the Rules of Procedure states:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

As the Respondent attended this hearing, while the Applicant did not attend by 9:40 am for his own application, I directed that the hearing be conducted in the absence of the Applicant.

Preliminary Matter – Jurisdiction

The Respondent, the owner of the dispute property, testified that the property is shared accommodation. The Respondent stated she rents out three student rooms, but otherwise has full access to and use of the bathroom and kitchen area shared with her renters.

Section 4(c) of the Act states that the Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

Based on the Respondent's undisputed testimony, I find the Act does not apply in the circumstances, pursuant to section 4(c).

My authority is only with the Act, and since the Act does not apply, I decline jurisdiction to hear and decide any matters relating to this dispute.

Conclusion

For the reasons set out above, I decline jurisdiction with respect to this dispute.

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: June 15, 2022

Residential Tenancy Branch