



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL, MNDL**

Introduction

This hearing dealt with an Application for Dispute Resolution by the Applicant filed under the *Residential Tenancy Act* (the “Act”), for a monetary order for damages caused by the tenant to the rental unit and to recover the cost of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The tenant indicated they received the Applicant’s evidence when they were served the application. The tenant indicated they did not serve the Applicant with their evidence. As the Applicant was not served, I find I must exclude the tenant’s evidence.

Preliminary and Procedural Issue

In this case, I must determine whether I have jurisdiction under the Act to consider this matter.

The Applicant was the purchaser who entered into a Contract of Purchase and Sale to purchase the subject property. The purchaser gave written notice to the seller for vacant possession and the tenant was served with a Two Month Notice to End Tenancy For Landlord’s Use of Property, which was effective December 31, 2021. The purchaser took possession of the premises on January 2, 2022.

In this case, I find that the Applicant is a purchaser, not a landlord as defined in the Act. I find no tenancy was ever established between the parties as the tenancy legally ended on December 31, 2021, prior to the possession date of January 2, 2022.

Even if I accept the tenant overhauled the premises until January 2, 2022, or left the rental unit unreasonably clean, which I make no finding, that does not give the purchaser any rights under the Act. If the Contract of Purchase and Sales was not fulfilled by the seller that is an issue between the seller and purchaser.

Further, if the tenant breached the Act, by failing to give vacant possession and left the premises unreasonably clean and the landlord, the seller, suffered a loss as a result of that breach then only the landlord can make that claim against the tenant, not the purchaser. As an example, the landlord had to pay to the purchaser an amount for cleaning, this could be recovered from tenant by the landlord, if proven.

Conclusion

I dismiss the Applicant's application without leave to reapply due to lack of jurisdiction.

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: August 08, 2022

Residential Tenancy Branch