



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT, MNDCT

Introduction

This hearing was convened as a result of the Applicants' application under the *Residential Tenancy Act* (the "Act") for:

- recovery of the Applicants' security deposit and/or pet damage deposit pursuant to section 38;
- compensation for monetary loss or money owed by the Respondent pursuant to section 67; and
- recovery of the Applicants' filing fee for this application under section 72.

The Applicants and the Respondent's agent AK attended this hearing and provided affirmed testimony.

Preliminary Matter – Jurisdiction

The dispute address is a residential property with a single detached home. The parties' evidence indicates that this dispute arose from the rental of a portion of the driveway located at the dispute address for one of the Applicants to park and live out of their own RV trailer. The parties' evidence suggests that the municipality eventually took action to end this living arrangement.

Section 2 of the Act states:

What this Act applies to

2(1) Despite any other enactment but subject to section 4 [*what this Act does not apply to*], this Act applies to tenancy agreements, rental units and other residential property.

(2) Except as otherwise provided in this Act, this Act applies to a tenancy agreement entered into before or after the date this Act comes into force.

Section 1 of the Act defines “tenancy agreement”, “rental unit”, and “residential property” as follows:

“tenancy agreement” means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;

“rental unit” means living accommodation rented or intended to be rented to a tenant;

“residential property” means

- (a) a building, a part of a building or a related group of buildings, in which one or more rental units or common areas are located,
- (b) the parcel or parcels on which the building, related group of buildings or common areas are located,
- (c) the rental unit and common areas, and
- (d) any other structure located on the parcel or parcels;

(emphasis added)

In this case, I find the area rented was an empty space on a driveway located on a residential property with a single detached house. I find that such space does not fall under the definition of a “rental unit” under the Act as it is not “living accommodation” rented or intended to be rented to a tenant. I find that any agreement the parties may have had regarding the rental of such a space would therefore not fall under the definition of a “tenancy agreement” under the Act. As such, I conclude that the Act does not apply in the circumstances.

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

Pursuant to section 62(1)(b) of the Act, 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: September 13, 2022

Residential Tenancy Branch