



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT

This hearing was convened by way of conference call in response to an application for dispute resolution (“Application”) filed by the Applicant pursuant to the *Residential Tenancy Act* (the “Act”) to seek an Order of Possession pursuant to section 54 of the Act.

The Applicant and both of the Respondents (“LV” and “FV”) attended the participatory hearing. The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I informed the parties that the *Residential Tenancy Branch Rules of Procedure* (“RoP”) prohibit persons from recording dispute resolution hearings and, if anyone was recording the hearing, to immediately stop recording the proceeding.

The Applicant stated he served the Notice of Dispute Resolution Proceeding and his evidence (“NDRP Package”) on the Respondents’ door on September 22, 2022. Although it does not appear the Applicant served each of the Respondents separately with the NDRP Package, both the Respondents attended the hearing and LV stated the Respondents received the NDRP Package. As such, I find the NDRP Package was sufficiently served on the Respondents pursuant to section 71(2)(b) of the Act.

LV stated the Respondents did not serve the Applicant with any evidence for this proceeding.

Preliminary Matter – Jurisdiction of Residential Tenancy Branch to hear Application

At the outset of the hearing, I asked whether the Applicant shares kitchen and/or bathroom facilities with the owners of the residential premises. The Applicant stated he had a bucket with a lid for a toilet and no bathing facilities. The Applicant and the Respondents acknowledged the Applicant used the bathroom upstairs from time to time that is also used by the Respondents.

Section 4(c) of the Act states:

- 4 This Act does not apply to
 - [...]
 - (c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,
 - [...]

I find the Applicant and Respondents shared bathroom facilities with the Landlords during the tenancy. As such, section 4(c) of the Act states the Act does not apply to these living accommodations. Based on the above, I do not have jurisdiction to hear this dispute and I dismiss the Application without leave to reapply.

Conclusion

The Residential Tenancy Branch does not have jurisdiction to hear the Application. The Application is dismissed,

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: October 13, 2022

Residential Tenancy Branch