



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

The Applicant seeks the following relief under the *Residential Tenancy Act* (the “Act”):

- an order pursuant to s. 67 for monetary compensation for money owed or other loss; and
- return of his filing fee pursuant to s. 72.

A.S. appeared as the Applicant. C.B. appeared as the Respondent.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The Applicant advised having served the Notice of Dispute Resolution on the Respondent by way of registered mail, which the Respondent acknowledged receiving. I find that the Notice of Dispute Resolution was served in accordance with the *Act*.

Preliminary Issue – Jurisdiction

At the outset of the hearing, I enquired about aspects of the purported tenancy. The Applicant advised that he rented a room within a home and that he paid his rent to the Respondent. The Applicant further testified that he and the Respondent shared a kitchen together. The Applicant also testified that he enquired who the property owner was with the Respondent, who I am told refused to provide the information. The Respondent advised that he rents the place from a property manager and testified that he is not the landlord.

Policy Guideline #27, which provides guidance with respect to issues of jurisdiction for the Residential Tenancy Branch, states the following on page 8 which is relevant to the present circumstances:

The RTA gives the director authority to resolve disputes between landlords and tenants. However, a tenant who is occupying a rental unit is excluded from the definition of a landlord in the RTA. That means the director has no jurisdiction to resolve disputes between co-tenants, tenants in common, or roommates.

For example, if Person A enters into a tenancy agreement to rent a 2 bedroom rental unit from a landlord and occupies the first bedroom and rents the second bedroom out to Person B, the RTA would not apply to a dispute between Person A and Person B even if Person B has exclusive possession of the second bedroom. The director does not have jurisdiction to resolve these types of disputes.

However, if Person A is renting a residential property with more than one rental unit (like a house with an upper suite and a lower suite) and Person A rents out the lower suite to Person B, the director may have jurisdiction. Person A may meet the definition of a landlord under the RTA because they are not occupying the rental unit Person B resides in but they are entitled to possession of that rental unit and are exercising the rights of a landlord in relation to it.

For information on the requirements around subletting, please see Policy Guideline 19: Sublet and Assignment.

Depending on the particulars, the Civil Resolution Tribunal may have jurisdiction to resolve disputes between tenants and roommates. More information about the Civil Resolution Tribunal can be found at civilresolutionbc.ca

In the present circumstances, I find that I do not have jurisdiction to adjudicate the present dispute as s. 2(1) of the *Act* limits the *Act*'s application to disputes regarding residential tenancies. By reference to the definition set out in s. 1 of the *Act*, these clearly limit the application to disputes between landlords and tenants. Further, s. 4(c) of the *Act* specifically states the *Act* does not apply to living accommodations in which a kitchen is shared, such as is the case here as admitted by the Applicant. In other words, the parties here are roommates and the *Act* does not apply under the circumstances.

As I do not have jurisdiction to adjudicate this dispute, it is hereby dismissed without leave to reapply in its entirety.

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: November 28, 2022

Residential Tenancy Branch