



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing dealt with an application pursuant to the *Residential Tenancy Act* (the “Act”) for:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67.

The hearing was conducted by conference call. The respondent did not attend this hearing, although I waited until 11:45 a.m. in order to enable the respondent to connect with this teleconference hearing scheduled for 11:30 a.m. The applicant attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The applicant testified that on September 14, 2022, a copy of the Application for Dispute Resolution including the Notice of Hearing and evidence package was served personally on the respondent by a process server. A certificate of service was provided in support of service.

Based on the above evidence, I am satisfied that the respondent was served with the Application for Dispute Resolution and Notice of Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the respondent.

Pre-liminary Issue

Do I have jurisdiction over this matter?

Background and Evidence

There was no tenancy agreement submitted as evidence on file. The applicant stated that she herself was not sure if the respondent was a tenant or a friend of her late son. The applicant testified that her son who was a joint owner of the property managed the property before he passed in October 2021. When going through her son’s banking

records, she found payments from the respondent. The applicant testified that the respondent herself in the past has stated that she is a renter.

The applicant testified that her son lived at the property himself and that he had roommates living with him with whom he shared the premises.

Analysis

Before making any finding on the merits of the claim, I must determine if I have jurisdiction under the Act over this matter.

Section 4(c) of the *Act* stipulates that the *Act* does not apply to:

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

The applicant testified that her son who was also an owner of the property shared the accommodation with the respondent. Therefore, I find that the Act does not apply to this living accommodation.

Conclusion

I find that I do not have jurisdiction over this matter.

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 14, 2022

Residential Tenancy Branch