



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order regarding a disputed additional rent increase pursuant to section 43;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;

The hearing was conducted by conference call. All named parties attended the hearing and were given an opportunity to be heard, to present evidence and to make submissions. No issues were raised with respect to the service of the application on the landlord.

In response to this application, the landlord submitted a copy of a tenancy agreement which does not identify the applicant as a tenant. The landlord submits that there is no tenancy agreement in place with the applicant, rather the tenancy is with the applicant's mother and the applicant is a minor. This submission raised the preliminary issue of jurisdiction.

Preliminary Issue

Do I have the jurisdiction in this matter?

Background & Evidence

The applicant is claiming she was illegally locked out of the rental unit by her mother.

The landlord submits this tenancy began years ago and they only have a contractual relationship with the applicant's mother and this is a family matter which is out of the landlord's control.

The applicant's advocate stated that the applicant just turned 18 and he has a copy of a tenancy agreement naming the applicant as the tenant. The advocate submits that in some letter issued by the landlord, the landlord also referred to the applicant as a tenant. The advocate submits that they were unable to get the applicant legal representation in time for the hearing; therefore, were unable to provide a copy of the tenancy agreement and letter. The applicant did not submit any tenancy agreement or documentation to support that she was also a tenant.

The landlord denied there being any tenancy agreement naming the applicant as a tenant and submits that any legal contract was only signed with the person who pays the rent which is the tenant's mother.

The applicant's advocate submits the landlord did not provide them with a copy of the tenancy agreement submitted into evidence.

Analysis

Before making any finding on the merits of the claim, I must determine if I have jurisdiction under the Act to make a decision on the application before me.

Pursuant to section 2 of the Act, the Act applies to **tenancy agreements**, rental units and other residential property.

A tenancy agreement is defined under section 1 of the Act 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;

Based on the evidence before me, I find there was insufficient evidence that there was a tenancy agreement in place between the applicant and the landlord. It appears the

applicant is or was only an occupant who does not share the rights or obligations under a tenancy agreement as a tenant. The onus is on the applicant to demonstrate that she was a tenant and not just an occupant. Even if the tenancy agreement submitted by the landlord is disregarded, I find the applicant has failed to demonstrate such.

At the end of the day, this appears to be a civil matter between the applicant and her mother. I note that even if at some point the applicant was named as a co-tenant on a tenancy agreement, if for whatever reason, the co-tenant (her mother) no longer wishes for her to be on the lease, it would be a simple matter of one of the tenants to issue a notice to end tenancy to the landlord which would end the tenancy for all co-tenants. The landlord would then be free to enter into a new tenancy agreement with whomever he pleases including just one of the co-tenants. It appears that the landlord is content continuing this tenancy with the applicant's mother so it is unclear what the applicant is trying to accomplish by filing this application against the landlord.

As I find there is no tenancy agreement in place between the landlord and the applicant, I do not have jurisdiction under the Act over this matter.

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: February 27, 2023

Residential Tenancy Branch