



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNL, OLC**

Introduction

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

- An order to cancel a 2 Month Notice to End Tenancy for Landlord’s Use pursuant to sections 49 and 55; and
- An order for the respondent to comply with the Act, regulations or tenancy agreement pursuant to section 62.

The applicant did not attend this hearing although I left the teleconference hearing connection open until 11:25 a.m. to enable the applicant to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the respondent, her agent and I were the only ones who had called into this teleconference.

The respondent attended the hearing with her agent/son BM. The respondent acknowledged being served with the application for dispute resolution via email sent to a representative of the agency caring for her health.

Background and Evidence

The respondent owns the manufactured home that is the subject of this application. The applicant moved in with the respondent on December 22, 2021. The two of them shared a kitchen and a bathroom from the time when the applicant moved in until March 4, 2023 when the respondent moved out of the manufactured home due to concerns for her own safety from the applicant’s behaviour.

The respondent had personally served the applicant with a 2 Month Notice to End Tenancy for Landlord’s Use on November 1, 2022. The reason for ending the tenancy states:

The tenant no longer qualifies for the subsidized rental unit.

The respondent testified that there were no subsidies that the applicant needed to qualify to move into the home although she does receive some funding due to mental health related issues. The actual reason for ending the tenancy is because the respondent intends on selling the manufactured home.

Analysis

Section 4(c) of the Residential Tenancy Act states that the Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. At the time the notice to end tenancy was served upon the tenant, the living accommodation between these parties fell into the category as defined under section 4(c). Although the respondent testified that she has since fled the accommodation, at the time the notice to end tenancy was served, the parties shared a kitchen and a bathroom.

As such, I find the Act does not apply and I have no jurisdiction to render a decision in this matter.

Conclusion

I decline to hear this matter further as I have no jurisdiction to consider this application.

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: March 28, 2023

Residential Tenancy Branch