

DECISION

Introduction

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

- an order of possession pursuant to ss. 49 and 55 after serving a Two-Month Notice to End Tenancy for Landlord’s Use of the Property signed on January 31, 2024 (the “Two Month Notice”); and
- return of the filing fee pursuant to s. 72.

The Respondents filed their own application seeking the following relief under the *Act*:

- an order pursuant to s. 49 cancelling the Two Month Notice;
- a monetary order pursuant to s. 67 for compensation or other money owed;
- an order pursuant to ss. 27 and 62 that the Landlord provide services or facilities required by the tenancy agreement or law;
- an order pursuant to s. 65 for a rent reduction;
- an order pursuant to s. 65 for the return of personal property;
- an order pursuant to s. 62 that the landlord comply with the Act, Regulations, and/or the tenancy agreement; and
- return of the filing fee pursuant to s. 72.

C.W. attended as the Applicant and was represented by C.W., who acted as her agent. The Applicants, L.G. and Y.Z., attended the hearing.

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.

Jurisdiction

I was advised by the parties that the Respondents live in a bedroom of the lower portion of the residential property, which is a single detached home.

The Applicant’s agent advised that the Applicant lives in the home with the Respondents, that she owns it, that there is no lower suite, and that she shares a

kitchen with the Respondents. The Respondent L.G. confirmed that there was no separate suite and that common areas are shared with the Applicant.

Section 4 of the *Act* sets out specific exclusions for when the *Act* does not apply. Relevant to these circumstances, s. 4(c) of the *Act* states the following:

What this Act does not apply to

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,

There is no dispute that the Applicant owns the residential property and shares the kitchen with the Respondents. I find that I do not have jurisdiction to adjudicate this dispute as the *Act* as it does not apply to circumstances such as these.

The evidence contains a copy of a tenancy agreement and Two Month Notice, both of which are in forms prepared by the Residential Tenancy Branch. However, the mere use of the forms does not mean this is a tenancy which can be adjudicated. There is no dispute on the underlying facts that trigger the exclusion under s. 4(c) of the *Act*.

As I do not have jurisdiction, I decline to adjudicate the matters in dispute and dismiss both applications, in their entirety, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the *Act*.

Dated: May 14, 2024

Residential Tenancy Branch