



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding KIRIN INVESTMENT LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP, OLC, FFT

Introduction

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

- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties participated in the conference call. Both parties gave affirmed evidence and confirmed that they had exchanged each others documentary evidence.

Preliminary issue - Jurisdiction

The parties were given full and ample opportunity to present their positions. The issue of jurisdiction arose at the outset of the hearing and time was required to fully explore and understand the nature and mechanics of this agreement. The applicant gave the following testimony. The applicant testified that she rented the main floor of the home for \$5,980.00 per month, which has nine bedrooms. The applicant testified that she also rented the basement portion of the home for \$2,980.00 per month, which has five bedrooms.

The applicant testified that the amount of rent she collected was in excess of the rent she had to pay each month. The applicant testified that the range she charged to rent each room was from \$800.00 - \$1,200.00 per month. The applicant testified that she did not reside in the home from January – April 2024 but now resides in the basement with four other occupants. The applicant testified that she has a tenancy agreement with the

respondent that allows up to nine occupants in the upper portion of the home and another agreement with the respondent for the basement to allow for five occupants.

The respondent submits that the applicant is not a vulnerable tenant, but rather, a sophisticated for-profit rooming house business that does not fall under the jurisdiction of the Residential Tenancy Branch or Act. The respondent submits that the respondent acted in good faith and that the matter should be dismissed as this is not a landlord tenant relationship.

Analysis

The relationship between the parties is an acrimonious one. On several occasions, the parties accused each other of lying. The applicant submits that she is relying on the addendum clause #7 to the tenancy agreement that states:

“The Tenant agrees that there can be up to a maximum of 9 occupants, consists of the Tenant, the Tenant’s family members, relatives, and friends.”

That clause clearly states that the applicant is to be one of the 9 occupants. The applicant did not provide sufficient evidence to show that her family or friends lived there at any time.

Section 4 of the Act addresses the issue before me as follows:

What this Act does not apply to

4 This Act does not apply to

- (d) living accommodation included with premises that
 - (i) are primarily occupied for business purposes, and
 - (ii) are rented under a single agreement,

The applicant is collecting \$10,400.00 to \$15,600.00 per month in rent. The applicant was very clear in her testimony that the amount of revenue she received from the other occupants far exceeded what her costs were to rent the home. I find that the applicant is running a very organized and sophisticated business model. I find that this was a high volume, highly profitable business venture for the applicant. I find that the applicant rented this home for a singular purpose, and that purpose was to make money and not for her own personal housing or shelter and, didn’t rent out rooms to help cover the rent, but in fact to make a profit.

I find that the Residential Tenancy Act does not apply as the living accommodation was occupied for business purposes and rented under a single agreement.

Conclusion

I decline jurisdiction to hear this matter; accordingly, this application is dismissed in its 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 *Residential Tenancy Act*.

Dated: June 17, 2024

Residential Tenancy Branch