

## **DECISION**

### **Introduction**

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (Act). TG's application for:

- A Monetary Order of \$15,000.00 for compensation for monetary loss or other money owed under the Act

And RF's application for:

- A Monetary Order of \$19,000.00 for Unpaid Rent
- Authorization to recover the filing fee for this application under section 72 of the Act

Those listed on the cover page of this decision attended the hearing and were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The original hearing began on January 9, 2025, and an interim decision was issued dated January 29, 2025, which should be read in conjunction with this decision.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence**

At the hearing of February 26, 2025, both parties confirmed service of the Proceeding Package and documentary evidence. As such, I find both parties were served with the required materials in accordance with the Act.

### **Issue(s) to be Decided**

Does the Act apply to this dispute, and do I have jurisdiction to decide this dispute?

### **Background and Evidence**

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

The rental unit is a house (the House). RF testified that they purchased the House in 2018 and since that time they have occupied the House. RF testified that the House has three bedrooms, one bathroom and one kitchen.

Legal Counsel AH for RF submits the parties agreed for TG to reside at the House on a temporary basis, as a solution for an emergency situation when TG had to leave transitional housing. Legal Counsel AH submits RF supported TG due to their work with a non-profit women's support centre, to assist with issues of domestic violence and homelessness.

Legal Counsel AH submits RF was on vacation, and out of the country, and both parties agreed to shared accommodation of the House. RF testified that all of their belongings remained in the House, to include clothing, jewelry, personal art, personal items and a vehicle that was parked in the driveway.

Legal Counsel AH submits on April 22, 2022, the parties signed a google document agreement (Agreement) to reflect the same. The Agreement was submitted in evidence.

The Agreement shows the following details that are relevant for this decision:

May 1 – May 31, 2022

- \$1000.00 damage deposit
- \$1,500.00 rent for the month
- Roommate will stay in the tiny bedroom, you have master bedroom and loft

June 1 – December 31, 2022

- \$2000.00 rent per month
- The following receive mail at this address: to include the name of RF

Legal Counsel AH submits that on April 29, 2022, TG paid rent of \$1,500.00, of which \$1000.00 was returned to them as a loan on May 12, 2022. Legal Counsel submits TG did not pay any amount for a damage deposit.

Legal Counsel AH submits TG moved into the House on May 7, 2022, and the locks were changed on May 29, 2022, after which point TG did not return to or occupy the

House. A new key was not provided to TG. During this time another occupant of the House (the Roommate) also continued to reside at the House.

TG testified that no later than June 1, 2022, they paid to RF rent in the amount of \$1,500.00 for May 2022, \$2000.00 for June 2022, and a security deposit of \$700.00.

TG referred to an email dated May 6, 2022, which was submitted as part of their documentary evidence. TG testified that after the parties entered the Agreement, the parties signed a tenancy agreement (Tenancy Agreement) on May 15, 2022. The TA was submitted in evidence and shows the tenancy start date of May 1, 2022.

TG testified that RF did not live on the property, rented the entire House to them, knowing the Roommate planned to move out, and at no time did they communicate otherwise, or of their plan to return to the rental unit.

## **Analysis**

Section 4(c) of the Act states this Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, which is more likely than not, I find the following:

In this case I find TG and RF entered into an agreement for TG to occupy the House as per the Agreement. I find the House was shared accommodation for TG, the Roommate and RF. I find RF did not provide to TG exclusive possession of the House. RF was to return to the House at the end of their vacation, with no plans or arrangements for alternate accommodation secured by them. I find the Act does not apply to the living accommodation and situation before me given it was a shared accommodation between TG and RF as the owner of the accommodation.

Further, I place no weight on the Tenancy Agreement that was signed on May 15, 2022, for the reasons noted below:

Firstly, the Tenancy Agreement was subsequent to the Agreement and I find TG had already occupied the House as per the latter. Further, the evidence shows the Tenancy Agreement was signed as a document for the benefit of TG gaining additional financial support from the Ministry. I find the Tenancy Agreement reflected a different agreement of rent and occupancy start date, one that was false and not reflective of the facts.

I find the Tenancy Agreement was not a genuine or accurate document for the reasons noted above.

I decline to proceed due to a lack of jurisdiction for the reasons noted above.

## **Conclusion**

The Residential Tenancy Branch does not have jurisdiction to hear this matter, and I decline to make any ruling.

The parties may turn to an alternate forum to seek dispute resolution services.

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: March 6, 2025

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Residential Tenancy Branch