



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction and Evidence

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for unpaid rent, an order of possession due to unpaid rent, for authority to retain a security deposit and for recovery of the filing fee.

The landlord was the only attending party. I questioned the landlord about the status of the respondent, who the applicant has listed as "Occupant."

The landlord explained that he was the son of the owner and that he and his brother, the other listed applicant, have been appointed Joint Committees over their father by the Supreme Court of British Columbia due to the owner's mental and physical infirmity.

The landlord testified that someone lives in the rental unit, but that he was not sure of the name. The landlord said that he believed another party was a tenant, but that tenant does not appear to live there now and another person is seen coming and going from the rental unit. Having said that, the landlord said he has not seen this person lately as he has been arrested.

After extensive questioning, the landlord could not provide proof that, as to this rental unit, there was a tenant or a tenancy agreement.

Additionally the landlord failed to provide proof that anyone was served with the Notice of Hearing.

Analysis

In order for the applicant to succeed in this application, the applicant must show that the *Residential Tenancy Act* applies. In order to find the Act applies, I must be satisfied that the parties entered into a tenancy, had agreed upon a tenancy agreement and that the parties had a landlord and tenant relationship.

In the circumstances before me, I find the applicant/landlord failed to submit proof of a tenancy, that there was a landlord/tenant relationship with the listed respondent, the identity of anyone who may be obligated to pay rent, or that this party, anyone who may be in the rental unit, was obligated to pay monthly rent to the landlord.

Without such proof of a tenancy or that that a respondent was served with the Notice of Hearing and the landlord's application, I cannot proceed on the landlord's application.

In light of the above, I decline to find jurisdiction to resolve this dispute. The landlord is at liberty to seek the appropriate legal remedy to this dispute.

Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute and I have declined jurisdiction.

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: September 20, 2012.

Residential Tenancy Branch