



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit pursuant to a 1 Month Notice to End Tenancy For Cause ("Notice") and to recover the filing fee paid for this application.

The landlord (hereafter "applicant") attended the hearing; however, the tenant (hereafter "respondent") did not attend. The applicant stated that he had served his application to the respondent by registered mail; however, the respondent did not claim the mail and it was returned to the applicant.

I accept the applicant's evidence that the respondent was served with his application as required by section 89(1) of the Act and the hearing proceeded in the respondent's absence.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### ***Preliminary matter-***

The applicant filed his application under the *Manufactured Home Park Tenancy Act*, however, the rental property in question was a manufactured home located on a pad site, which was not the subject of this dispute. I have therefore amended the applicant's application to seek remedy under the Residential Tenancy Act.

Issue(s) to be Decided

1. Is the applicant entitled to an order of possession for the rental unit due to alleged cause and to recover the filing fee?
2. Does this dispute fall under the jurisdiction of the *Residential Tenancy Act* so that I have authority to resolve this dispute?

Background and Evidence

The applicant submitted at the beginning of the hearing that the listed respondent was not a tenant, but rather she was in the home without authority, in effect, a “squatter,” and that there was not a tenancy with the respondent. The applicant further explained that he owned the manufactured home as well as the pad site upon which the home was located.

In further explanation, the applicant stated that he formerly lived in the home with the respondent when they had a relationship; however, after the parties broke up, the respondent continued to live there and would not vacate.

The applicant stated that a tenancy was never formed and that he had never collected rent or a security deposit and that the respondent lives in the home without permission.

The applicant submitted that the local police would not evict the respondent, as the issue was a residential tenancy matter.

The applicant gave evidence that the respondent was served the Notice on or about October 22, 2015. The effective vacancy date listed on the Notice was November 25, 2015.

The applicant submitted that he believed this was his only remedy to have the respondent evicted from the rental unit, as the local police agency would not intervene, even though he believed the respondent was a “squatter.”

Analysis

In order for the applicant/landlord to succeed in this application, the applicant/landlord 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 and that the parties had a landlord and tenant relationship.

Residential Tenancy Policy Guideline 27 states that the Residential Tenancy Branch does not have the authority to hear all disputes regarding every type of relationship between two or more parties. The jurisdiction conferred by the Legislation is over landlords, tenants and strata corporations.

I accept the testimony of the applicant that a tenancy agreement was never formed between the applicant and the respondent. For instance, there was no proof that the respondent ever paid rent or a security deposit. I was not provided any evidence that a consensus was ever reached between the parties that a tenancy agreement was contemplated or agreed upon. Further, I was provided undisputed evidence that the respondent has no ownership interest in the home or property.

I therefore find that the applicant and respondent had not entered into a landlord-tenant relationship, that the applicant did not continue to allow occupancy of the residential property, and that he had taken steps to have the respondent removed from the residential property, having never received monthly rent or a security deposit.

As a result, I find upon a balance of probabilities that a tenancy agreement did not exist between the parties and I therefore decline to find jurisdiction to resolve this dispute.

The applicant 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: December 31, 2015

---

Residential Tenancy Branch

