Dispute Resolution Services

DECISION

Dispute Codes   CNC MNDC OLC ERP RP PSF OPT MT O

Introduction

This hearing dealt with an Application for Dispute Resolution (the "Application") by the Applicant to cancel a 1 Month Notice to End Tenancy for Cause, for more time to make an application to cancel a notice to end a tenancy, for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement, for emergency repairs for health or safety reasons, for regular repairs to the unit, site or property, to provide services or facilities required by the tenancy agreement or law, for an order of possession of the rental unit and other unspecified relief.

The applicant, the respondent and two agents for the respondent attended the teleconference hearing and gave affirmed testimony. During the hearing both parties were given the opportunity to provide their evidence orally and respond to the testimony of the other party. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter

The first issue that I must decide is whether the *Act* has jurisdiction over the parties in order to proceed with the Application.

The applicant confirmed that in a previous decision; the file number of which has been included on the cover page of this decision for ease of reference (the "previous decision"), the applicant had named a respondent who she thought was her landlord. In that decision, the arbitrator found that the *Act* did not apply to her living arrangement as the respondent in the previous decision was actually a tenant and had rented out a room to subsidize their rent. As a result, that relationship was a roommate relationship which did not fall under the *Act.*

In the matter before me, the respondent denied that the applicant was a tenant and testified that he had no tenancy agreement with the applicant and that he considered the applicant as a "guest" of the actual tenant and that a "guest" has no rights under the *Act.* The applicant confirmed that she did not have a tenancy agreement with the respondent.

Analysis

Based on the above, and on a balance of probabilities, I find the following.

Section 1 of the *Act* applies and defines "landlord" as the following:

"Landlord", in relation to a rental unit, includes any of the following:

(a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,

(i) permits occupation of the rental unit under a tenancy agreement, or

(ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

(b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);

c) a person, <u>other than a tenant occupying the rental unit</u>, who

(i) is entitled to possession of the rental unit, and

(ii) exercises any of the rights of a respondent under a tenancy agreement or this Act in relation to the rental unit;

(d) a former landlord, when the context requires this;

[my emphasis added]

Based on the evidence before me, I find there is insufficient evidence to support that there is a landlord and tenant relationship between the applicant and the respondent. I find the applicant, while she may have been an occupant at some point; occupants are not tenants and have no rights under the *Act*.

Given the above, I find that I do not have jurisdiction to hear this dispute under the *Act.*
<u>Conclusion</u>

I decline to hear the applicant's Application due to lack of jurisdiction under the *Act.*

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 24, 2017

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Residential Tenancy Branch