



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code ET

Introduction

This decision is further to my Interim Decision of December 15, 2017. In that Interim Decision I outlined my interim findings with respect to the Applicant's application for an early end to these tenancies pursuant to section 56 of the *Residential Tenancy Act* (the Act) and the issuance of Orders of Possession.

Both parties were represented at both the initial hearing on December 14, 2017 and in the reconvened hearing of February 15, 2018. Both parties were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

At both hearings, the Applicant was represented by his legal counsel and the Respondents were represented by ML, who confirmed that he had authorization from JG to represent her interests in this matter.

As explained at the February 15, 2018 hearing of this matter, nothing has changed with respect to the application naming JG as the Respondent from the time of my Interim Decision. As such, I confirm the entire portion of my Interim Decision involving JG, which I set out as follows:

At the commencement of this hearing, I advised the parties that I was unable to consider the Application naming JG as the Respondent as another arbitrator appointed under the Act had made a final and binding determination on November 22, 2017 that there was no landlord/tenant relationship between these two parties. In her decision, referenced on the first page of this Interim Decision, that arbitrator found that she was without jurisdiction to consider an application submitted by JG naming the Applicant in the matter before me as the Respondent. As that arbitrator conclusively decided that no residential tenancy existed between these parties, the legal principle of res judicata prevents me from considering Applicant DE's application naming JG as a Respondent.

I decline to consider the portion of the current application naming JG as a Respondent, as a determination has been made that the relationship between DE and JG does not fall within the jurisdiction of the Act.

At the December 14, 2017 hearing, legal counsel for the Applicant sought and was granted an adjournment of the application for dispute resolution, pending the receipt of a written decision from another arbitrator appointed under the *Act*. Although plans had been made originally to have Respondent ML remove his remaining possessions from the cabin where he was residing by December 24, 2017, that has not occurred.

At the reconvened hearing on February 15, 2018, Respondent ML gave undisputed sworn testimony that he vacated the rental unit by September 29, 2017.

Whether or not the arrangement between Respondent ML and the Applicant constituted a residential tenancy as defined by the *Act*, both parties confirmed that the result the Applicant was seeking to obtain in the application for an early end to this tenancy has already been achieved. As such, the Applicant, upon the advice of the landlord's legal counsel, withdrew the application to obtain an early end to this tenancy.

The portion of the Applicant's application relating to Respondent ML is hereby withdrawn.

Conclusion

The application naming JG as a Respondent is dismissed as a decision has already been made that the *Residential Tenancy Act* does not apply to JG's relationship with the Applicant. The application naming ML as a Respondent is withdrawn.

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: February 15, 2018

Residential Tenancy Branch