



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC, ERP, MNR, OPR, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on March 27, 2018 for:

1. An Order cancelling a notice to end tenancy - Section 46;
2. A Monetary Order for compensation or loss - Section 67;
3. An Order for emergency repairs - Section 32; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on May 11, 2018 for:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent or utilities - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. The Landlord served its application and notice of hearing on the Tenant by registered mail on May 18, 2018 as provided for under Section 89 of the Act. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the dispute under the jurisdiction of the Act?

Background and Evidence

The property in question is a 10 acre piece of land with an old house on it. The property was leased to the Tenant primarily as a commercial operation growing crops. The Tenant maintains a house in the nearby city and is never at the property.

Analysis

Section 4(d) of the Act provides that the Act does not apply to, inter alia, living accommodation included with premises that are primarily occupied for business purposes, and are rented under a single agreement. Based on the Landlord's undisputed evidence of a lease of land that includes a house and that the Tenant is never at the property I find that, whether or not the house is even occupied by the Tenant, the lease allows occupation of the premises that is used or occupied primarily for a business purpose. I find therefore that the Act does not apply to the disputes in relation to the lease and I dismiss both applications.

Conclusion

The Act does not apply to either applications and they are both dismissed.

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: June 07, 2018

Residential Tenancy Branch