



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 115 PLACE COOPERATIVE HOUSING
ASSOCIATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, AAT, FFT

Introduction and Preliminary Matters

On September 24, 2020, the Applicant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”), seeking access to the rental unit pursuant to Section 30 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Applicant attended the hearing. V.S. and E.D. attended the hearing as agents for the Respondent. All parties in attendance provided a solemn affirmation.

The Applicant advised that he is a member of the cooperative housing association and that he holds shares in the cooperative. He did not have any submissions with respect to how his housing situation fell under the jurisdiction of the *Act* and he was not sure what recourse to take with respect to the issues that he is having with the cooperative. He also advised that he had never been served a One Month Notice to End Tenancy for Cause.

V.S. advised that it was the Respondent’s position that the *Act* would not have jurisdiction over this situation as per Section 4 of the *Act*, which states that the *Act* does not apply to living accommodation rented by a not for profit housing cooperative to a member of the cooperative. She referenced evidence submitted to support the Respondent’s position that this is a housing cooperative.

In my view, after hearing testimony from both parties, the consistent and undisputed evidence is that the Applicant is a member of a housing cooperative and that he holds shares in the cooperative. Based on the totality evidence before me, I am satisfied that the *Act* does not apply to this situation. Consequently, I find that there is no Landlord/Tenant relationship between the parties. Therefore, the Applicant has no rights or obligations under the *Act*.

Ultimately, I find that even if the parties intended upon entering into a tenancy agreement as contemplated under Section 1 of the *Act*, the *Act* would not apply to this tenancy. As a result, I have no jurisdiction to consider this Application and render a Decision on this matter.

During the hearing, both parties questioned multiple times why this Application was permitted to proceed. Each time, it was explained to them that the Residential Tenancy Branch could not refuse an Application and that if the Applicant wanted to file this Application, then it must be processed and scheduled. They were also advised that only an Arbitrator could make a determination on whether or not the *Act* would have jurisdiction over this issue once an Application was submitted.

The Applicant questioned why he was permitted to make this Application and insisted that he advised the Residential Tenancy Branch staff that he lived in cooperative housing. He was again advised that an Application could not be refused if a party wanted to file. Given that the Applicant advised that he was unsure of what legal recourse he had in regards to his situation, I find it more likely than not that he still made this Application despite being advised by the Residential Tenancy Branch staff that cooperative housing did not fall under the jurisdiction of the *Act*.

Conclusion

I decline to hear this matter as I have no jurisdiction to consider this Application.

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 10, 2020

Residential Tenancy Branch