

Residential Tenancies Tribunal

Application 2025-0395-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:58 p.m. on 4-June-2025.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the landlord” did not attend.

Preliminary Matters

4. The respondent was not present or represented at the hearing and I was unable to reach her at the start of the hearing. This Tribunal’s policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and the notice of hearing 10 clear days prior to the hearing date and, where the respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent’s absence so long as she has been properly served. The applicants submitted an affidavit with their application stating that they had served the respondent with the notice of hearing electronically by email to: [REDACTED] on 26-May-2025 however that was the incorrect date and the email was sent on 23-May-2025 at 3:17pm (TT#1). The applicants were able to show proof of the email address (TT#2). In accordance with the *Residential Tenancies Act, 2018* this is good service. As the respondent was properly served, and as any further delay in these proceedings would unfairly disadvantage the applicants, I proceeded with the hearing in her absence.
5. The applicants testified that there was never a rental agreement as their son and ex-partner are the homeowners and they stated that they paid the down payment for the property in April 2018.
6. This tribunal has to decide if there is a *residential tenancy relationship* between the applicants and the respondent before proceeding with the hearing.

Issues before the Tribunal

7. The tribunal is required to adjudicate on its jurisdiction.

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
9. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 2: Definitions. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy*: Section 1-2: Definition of landlord and tenant.

Analysis

10. Section 2 of the *Residential Tenancies Act, 2018* states:

Definitions

2(m). In this Act, “tenant” includes

- (a) a person who is entitled to use or occupy a residential premises under a rental agreement,
- (b) a person other than a landlord who enters into a rental agreement for the purpose of renting a residential premises for the use or occupation by another person and
- (c) the assigns and personal representatives of a person referred to in subparagraph (i) or (ii).

11. Section 1-2 of the *Residential Tenancies Policy* states:

Definition of Landlord and Tenant

The relationship of landlord and tenant is a contractual relationship, and it comes into existence when a landlord grants to the tenant the right to use and occupy residential premises in exchange for a payment of rent. A fundamental feature of contractual relationships is that only the parties to the contract may sue or be sued under it.

In order to be considered a tenant, that person must have agreed to pay rent to the landlord in exchange for the right to use and occupy residential premises. Individuals who live at residential premises with the tenant but who have not agreed to pay rent, i.e. individuals who are not a party to the contract, are considered “occupants” and should not be named in an Application for Dispute Resolution. Occupants may include the tenant’s spouse, children, or other family members, or roommates.

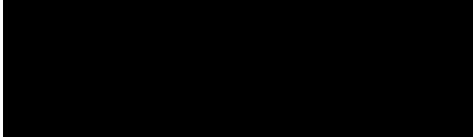
12. In accordance with Section 2(m) of the *Act* as stated above, a tenant is a person who is entitled to use or occupy a residential premises under a rental agreement, and I accept the applicant's testimony that they never entered into a rental agreement with the respondent and that rent was never paid nor was it ever expected to be paid.
13. In accordance with Section 1-2 of the *Policy* as stated above, I find that the relationship of landlord and tenant does not exist as the applicants were family to one of the homeowners and paid the downpayment for the property. I accept that the applicants are not and never were tenants and as such, a residential tenancy relationship does not exist.

Decision

14. The claim does not fall under the jurisdiction of the *Residential Tenancies Act, 2018*.

June 5, 2025

Date


Pamela Pennell, Adjudicator
Residential Tenancies Office