

Residential Tenancies Tribunal

Application 2023-0748-NL

Decision 23-0748-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 9:01 a.m. on 19-September-2023.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants” attended by teleconference.
4. The respondents submitted an Authorized Representative form (TT#01) naming [REDACTED], as their representative, he attended by teleconference and will hereinafter be referred to as “the authorized representative.”

Preliminary Matters

5. The landlord submitted an affidavit (LL#01) stating that his sister served the tenant personally with notification of today’s hearing on 05-September-2023. The tenant confirmed notification as stated.
6. During the presentation of the claim an issue of jurisdiction arose, this requires a decision, prior to deciding issues in the Application for Dispute Resolution. The following is this tribunal’s decision regarding Jurisdiction.

Issues before the Tribunal

7. This tribunal is required to adjudicate on its jurisdiction to hear this claim.

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 3: Application of the Act.

Issue 1: Jurisdiction

Relevant Submissions

10. During the presentation of the claim it is understood that the tenant was renting the premises in question. The homeowner is recently deceased and the tenant is named as the beneficiary in the will (LL#02).

Analysis

11. Both parties agree that the tenant has been named as beneficiary in the will. As the beneficiary, the tenant would then have a security interest in the home and therefore this tribunal does not have the jurisdiction to adjudicate on this matter and defers the issue to the appropriate court of jurisdiction. This is covered in Section 3.(4).(k) of the *Residential Tenancies Act, 2018*, as follows:

Application of Act

3. (4) This Act does not apply to

(k) an attornment clause in a mortgage or other instrument creating a security interest in residential premises; and

Summary of Decision

12. This claim is not under the jurisdiction of the Residential Tenancies Act.

September 20, 2023

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office