

Residential Tenancies Tribunal

Application 2024-0158-NL
Application 2024-0165-NL

Decision 24-0158-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:45 p.m. on 21-March-2024.
2. The applicant, [REDACTED] hereinafter referred to as "the tenant", attended by teleconference.
3. The respondent and counter applicant, [REDACTED] hereinafter referred to as "the landlord" attended by teleconference.

Preliminary Matters

4. The tenant submitted an affidavit with her application stating that she served the landlord with the notice of hearing personally at the residential premises on 28-February-2024 (LL#1). The landlord countered the claim and submitted an affidavit stating that she served the tenant with the notice of hearing personally at the residential premises on 10-March-2024. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. During the preliminary stages of the hearing whereby the issue of jurisdiction has to be determined, it was found that this tribunal had to adjudicate on its jurisdiction before proceeding with the hearing.

Issues before the Tribunal

- The tribunal is required to adjudicate on its jurisdiction to hear this claim.

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
7. 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

Analysis

8. During the presentation of the claim, it was determined that the applicant and the respondent never entered into a residential tenancies' relationship. The owner of the residence stated that the applicant moved into the unit on 1-September-2021 and was never asked to pay rent nor was the payment of rent ever expected from her. The owner of the premises testified that she had a "mother / daughter" relationship with the applicant, and she clearly stated that there was no rental agreement and the applicant never paid rent.
9. Section 3 of the Residential Tenancies Act, 2018 states:

Application of Act

3. (1) Notwithstanding another Act or agreement, declaration, waiver or statement to the contrary, this Act applies where the relationship of landlord and tenant exists in respect of residential premises.

(2) Notwithstanding another Act or agreement, declaration, waiver or statement to the contrary, this Act applies to residential premises, residential complexes and rental agreements, whether made before or after this Act comes into force.

(3) The relationship of landlord and tenant shall be considered to exist in respect of residential premises where the tenant

- a. *uses or occupies residential premises and*
 - i. ***has paid or agreed to pay rent to the landlord, or***
 - ii. *a governmental department or agency has paid or has agreed to pay rent to the landlord;*
 - b. *makes an agreement with the landlord by which the tenant is granted the right to use or occupy residential premises in consideration of the payment of or promise to pay rent; or*
 - c. *has used or occupied residential premises and*
 - i. ***has paid or agreed to pay rent to the landlord, or***
 - ii. *a governmental department or agency or agreed to pay rent to the landlord.*
10. The applicant and the respondent never entered into a rental agreement and rent was never paid nor expected to be paid. For this reason, I find that this application does not fall under the jurisdiction of the *Residential Tenancies Act, 2018* and as such, disputes will have to be heard in another court of competent jurisdiction.

Summary of Decision

11. This claim does not fall under the jurisdiction of the *Residential Tenancies Act, 2018*.

March 25, 2024

Date


Pamela Pennell
Residential Tenancies Office