

Residential Tenancies Tribunal

Application 2024-0547-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 1:50 p.m. on 14-August-2024.
2. The applicant, [REDACTED], attended via teleconference.
3. The respondent, [REDACTED], attended via teleconference.

Preliminary Matters

4. The respondent argued that he is not, and has never been, a tenant of the property located at [REDACTED], [REDACTED]. Instead, the respondent asserted his ownership of the property, stating that this is the family house that he possesses the necessary documentation to substantiate. The respondent maintained that he never signed a rental agreement and never paid rent to the applicant.
5. The applicant contended that, technically, she is the rightful owner of the house. The applicant argued that the respondent never paid for the property, which, in her view, undermines that he is an owner.
6. The applicant submitted an agreement signed by both parties, in which the applicant agrees to rent-to-own the house to the respondent.
7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the Act. The application of the Act is defined by section 3, which reads as follows:
 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 the 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 has paid or agreed to pay rent to the landlord.

(4) This Act does not apply to

(a) living accommodation used or occupied on a transient basis provided in a hotel, motel, inn, tourist home, hostel or other similar accommodation;

(b) living accommodation used or occupied as a vacation home for a seasonal or temporary period;

(c) living accommodation used or occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care;

(d) living accommodation provided to temporarily shelter persons in need;

(e) living accommodation provided in a hospital, nursing home or a home established to provide personal care for the aged;

(f) living accommodation provided by an educational institution to its students;

(g) living accommodation provided on a transient basis by a religious, charitable or non-profit organization for the purpose for which it is established;

(h) living accommodation provided by a co-operative housing corporation to its members or shareholders who use or occupy the living accommodation;

(i) living accommodation attached to residential premises used or occupied for a business purpose where both are under a single rental agreement, unless the person using or occupying the living accommodation is a person other than the person using or occupying the residential premises for business purposes;

(j) a government department or agency that pays rent on behalf of a tenant;


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

(l) residential complexes or residential premises that are exempted from this Act by regulation.

8. Since the rent-to-own agreement has been presented as evidence, it establishes that no landlord and tenant relationship exist in respect of residential premises between the applicant and the respondent. As there was no landlord and tenant relationship in respect of residential premises, this tribunal has no jurisdiction. The application is dismissed.

August 19, 2024

Date


Oksana Tkachuk, Adjudicator
Residential Tenancies Office