

BETWEEN

ADQ

APPLICANT

AND

ADR

SECOND APPLICANT

AND

ZWJ

RESPONDENT

Date of Order:

27 March 2013

Referee:

Referee Benson

ORDER OF THE DISPUTES TRIBUNAL

The Tribunal hereby orders that the claim is struck out.

[1] From 30 November 2012, the Applicants owned a house where ADR lived and rented a room to ZWJ. They claimed that ZWJ left without notice and owed money for unpaid rent; the time her boyfriend stayed in the property; outgoings (water, electricity and telephone); damage to a mattress protector; coffee taken from the property, and cleaning (totalling \$973.48).

[2] The parties signed an agreement stating that this was a periodic tenancy subject to the Residential Tenancies Act 1986 (“RTA”). Arguably, the tenancy was excluded from the RTA as the premises were used principally as a place of residence by an owner of the property: s 5(1)(n) of the RTA. However, the Tenancy Tribunal had jurisdiction over this claim. Parties to excluded tenancies can agree that the Act applies: s 8 of the RTA. Further, the Tenancy Tribunal has jurisdiction over matters within its jurisdiction (s 82), including determining whether premises are residential premises to which the Act applies: s 77(2)(a) of the RTA.

[3] There was no power in the Disputes Tribunals Act 1988 to transfer a claim to the Tenancy Tribunal. The claim was therefore struck out. The applicants should file a claim in the Tenancy Tribunal.