



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: CNC MNDC MNSD O

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause, and for a monetary order and recovery of the security deposit. The tenant, the landlord and a witness for the landlord participated in the teleconference hearing.

Preliminary Issue of Jurisdiction

Evidence

At the outset of the hearing, the landlord raised an issue of jurisdiction. The landlord stated that she was a one-third owner of the house, and her mother appeared as a witness to confirm that her daughter, the landlord, was in fact a one-third owner. The landlord stated that the tenant first rented a room in the upstairs of the house, but approximately two weeks into the tenancy he stated that he wanted to live in the downstairs room. There is one kitchen and bathroom upstairs, which the tenant continued to use when he was upstairs, and there is another kitchen area in the laundry room downstairs and bathroom with a shower stall only which the landlord sometimes used when she was working in her crafts room downstairs. The tenant was only renting a room, and the rest of the house and property, including the kitchen and bathroom facilities, were shared between the landlord and tenant. The original ad for the rental indicated that it was “shared accommodation” comprised of 2 unfurnished rooms in a house with the owner.

The response of the tenant was that his impression of the ad was that the rental was for a suite. The tenant denied ever living upstairs, and said that he rented a suite

downstairs. The tenant denied sharing the upstairs or downstairs kitchen and bathroom with the landlord. Then the tenant stated that he dated the landlord, and asked her to marry him. The tenant stated that even though he and the landlord were dating he never shared the kitchen or bathroom with the owner because the landlord did not want her parents to know about their relationship. The tenant also stated that he reported the suite as an illegal suite to the city, and on August 1, 2009 they took the stove away. The tenant then did not do any cooking, and had to eat out at restaurants.

Analysis

Section 4 of the Residential Tenancy Act states that the Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. In this case, I accept the evidence of the landlord that she shared kitchen and bathroom facilities with the tenant. The accommodations were advertised as shared accommodations. The tenant's own evidence was that he had a romantic relationship with the landlord, and that he did not have a stove downstairs from August 1, 2009 through to October 2009, and yet he did not at any point share the kitchen or bathroom facilities with the landlord. I found the tenant's testimony to be contradictory and lacking in credibility.

Conclusion

I found that I did not have jurisdiction to hear this matter, on the basis that the tenant shared kitchen and bathroom facilities with the owner of the accommodation.

Dated October 22, 2009.