



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, FF

This hearing was convened by way of conference call on January 10, 2011, and was adjourned to January 12, 2011 to hear the tenant's application for a monetary order for return of the security deposit, and to recover the filing fee from the landlord for the cost of this application.

The tenant attended the hearing on both dates, as did counsel for the landlord.

Counsel for the landlord submitted that the rental unit was rented to the tenant by a not for profit housing cooperative, and the tenant was a member of the cooperative, and therefore, pursuant to Section 4(a) of the *Residential Tenancy Act*, the *Act* does not apply. Counsel also provided to the Residential Tenancy Branch a copy of an Application for Membership and Subscription for Shares signed on September 1, 2005 by the tenant, a witness and the President of the Co-operative.

I refer to Section 4(a) which states as follows:

4 This Act does not apply to

(a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative.

In the circumstances, and as evidenced by the Application for Membership and Subscription for Shares, I find that the tenant was in fact a member of the cooperative, and therefore, the *Residential Tenancy Act* does not apply and I have no jurisdiction to hear the tenant's claim.

The tenant's application is therefore dismissed without leave to reapply under the *Residential Tenancy Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 12, 2011.

Residential Tenancy Branch