



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET, O FE

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord seeking a determination with respect to ending the tenancy early without notice.

Despite being served in person on June 27, 2012, in front of a witness, the tenant did not appear.

Preliminary Matter

At the outset of the hearing the landlord took the position that the tenancy was not governed by the Act as the landlord owns the rental unit and has been occupying the unit along with the tenant from time to time and shares a kitchen with the tenant. The landlord acknowledged that no written agreement was signed.

Section 4 of the Residential Tenancy Act states that the Act does not apply to the following:

- (a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,
- (b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,
- (c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation, (my emphasis)
- (d) living accommodation included with premises that
 - (i) are primarily occupied for business purposes, and
 - (ii) are rented under a single agreement,
- (e) living accommodation occupied as vacation or travel accommodation,
- (f) living accommodation provided for emergency shelter or transitional housing,

(g) living accommodation

- (i) in a community care facility under the *Community Care and Assisted Living Act*,
- (ii) in a continuing care facility under the *Continuing Care Act*,
- (iii) in a public or private hospital under the *Hospital Act*,
- (iv) if designated under the *Mental Health Act*, in a Provincial mental health facility, an observation unit or a psychiatric unit,
- (v) in a housing based health facility that provides hospitality support services and personal health care, or
- (vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,

(h) living accommodation in a correctional institution,

(i) living accommodation rented under a tenancy agreement that has a term longer than 20 years,

(j) tenancy agreements to which the *Manufactured Home Park Tenancy Act* applies, or

(k) prescribed tenancy agreements, rental units or residential property.

Given the above, I accept the landlord's undisputed testimony that the premises, including the kitchen, are shared. For this reason, I find that the tenancy relationship between these two parties is excluded under section 4(c) of the Act. As this dispute involves a matter that is not governed by the Residential Tenancy Act, I find that I therefore lack any authority to hear or consider this application.

I hereby decline to hear or consider the application on the basis that I lack jurisdiction to do so.

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: July 03, 2012.

Residential Tenancy Branch