



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, O, CNR, MT

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The tenant's application is a request for a Monetary Order for \$1808.00, a request for an Order of Possession, and a request for recovery of the filing fee.

The landlord's application is a request for a Monetary Order for \$3418.00 and a request for recovery of the filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give some evidence orally.

All testimony was taken under affirmation.

Issue(s) to be Decided

Before proceeding with any hearing I dealt with an issue of jurisdiction.

Background and Evidence

The landlord testified that:

- This was shared accommodation in which the tenant rented a room, and shared the bathroom and kitchen with her, the owner of the house.
- You can see in the tenancy agreement that the tenant was simply renting a room.
- She did travel abroad for a period of time but at all times maintained the right to come and go from the rental unit, as she was a roommate in the property as well.

The tenant testified that:

- It was his understanding that he was renting the whole house as the landlord would be traveling for a period of time.
- This was not supposed to be shared accommodation; however the landlord returned early from her travels and simply moved back into the rental property.

Analysis

We obviously have conflicting testimony from the landlord and the tenants and therefore I must look to any written agreement, and the lease agreement very clearly states that it is a room rental.

Further, in the lease agreement it also states that the landlord is also a roommate, and nowhere in agreement does it state that the tenant would be renting the whole house.

I therefore find that this is a tenancy that is not within the jurisdiction of the Residential Tenancy Act as Section 4(C) of the Residential Tenancy Act states:

This Act does not apply to

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

Conclusion

I decline jurisdiction over this matter and if the parties wish to pursue these claims they will have to do so through the Courts.

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: December 05, 2013

Residential Tenancy Branch

