



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover the security deposit from the landlord.

The tenant and the landlord attended the conference call hearing and gave sworn testimony. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord confirmed receipt of evidence.

Preliminary Issues

The landlord testified that he owns the property and lived there with the tenant. The landlord testified that there is not a tenancy agreement in place. The tenant rented a room and shared the kitchen and bathroom with the landlord.

The tenant agreed with the landlord that they shared the kitchen and bathroom of the residential property and that the landlord lived in the property and is the owner of the property.

Analysis

In the matter of jurisdiction I refer the parties to s. (4)(c) of the *Act* which states the *Act* does not apply to living accommodation in which the Applicant shares bathroom or kitchen facilities with the owner of that accommodation.

In this case, I find that the tenant and landlord both provided testimony that the landlord is the owner of the property and the parties share the kitchen and bathroom.

In light of the testimony before me, I have considered whether or not I have jurisdiction in this dispute. As the landlord is the owner of the property and the tenant did not have exclusive possession of the kitchen or bathroom then pursuant to s. 4(c) of the *Act*, I find the *Act* does not apply and therefore the Residential Tenancy Branch does not have jurisdiction in this matter.

I explained to the parties that they are at liberty to pursue these matters using other legal remedies.

Conclusion

The tenant's application is dismissed pursuant to section 62(4)(b) of the *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: June 13, 2017

Residential Tenancy Branch