



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

This hearing was convened as a result of the Applicants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for the return of the security deposit that the Respondent is holding without cause; and to recover the \$100.00 cost of their Application filing fee.

The Applicants appeared at the teleconference hearing, but no one appeared on behalf of the Respondent. The teleconference phone line remained open for over 10 minutes and was monitored throughout this time. The only persons to call into the hearing were the Applicants, who indicated that were ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, were the Applicants. I explained the hearing process to the Applicants and gave them an opportunity to ask questions about it.

As the Respondent did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Applicant testified that he served the Respondent with the Notice of Hearing documents by Canada Post registered mail, sent on July 9, 2021. The Applicant provided a Canada Post tracking number as evidence of service. I find that the Respondent was deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Applicant in the absence of the Respondent.

The Applicants provided the Parties' email addresses in their Application, they confirmed these in the hearing, and they also confirmed their understanding that the Decision would be emailed to both Parties.

During the initial stages of the hearing, the Applicants advised that they shared the kitchen with the Respondent and other tenants. The Applicants said that they rented a room that had an en suite bathroom; however, they said that they shared the kitchen with the Respondent, who owned the residential property.

I advised the Applicants that pursuant to section 4 (c) of the Act, I do not have the jurisdiction to decide this matter on their behalf. Section 4 (c) 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". This accommodation is outside of the Act, and therefore, I have no jurisdiction to consider this matter. Further, the Applicants must bear the cost of their own \$100.00 Application filing fee, as the Act does not apply to this situation.

Conclusion

I decline to rule on this matter, as I have no jurisdiction to consider this Application. The Applicants were referred to the Civil Resolution Tribunal for assistance in resolving their dispute.

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 06, 2022

Residential Tenancy Branch