



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution by the Applicant for the return of their security deposit.

Both parties appeared. The first issue that I must decide is whether the Act has jurisdiction over the parties in order to proceed with the application as the Applicant had identified the same living address as the landlord.

The Applicant submits they paid \$700.00 per month in rent and paid a security deposit of \$600.00; therefore, a tenancy has been established.

The Applicant submits that they rented a room in the basement of the Respondents home and it has its own bathroom and kitchen; however, they acknowledge they do not have exclusive possession of the basement area and the Respondent is in the area frequently to let their pet outside.

The Applicant submits the Respondent does not use the basement kitchen or bathroom as they have their own. However, there are no locks between the basement and main floor.

The Respondent submits that the Applicant rented a room in their home. The Respondent submits that Applicant is always upstairs in the home going through their refrigerator and drink their milk.

Section 4 of the Residential Tenancy Act States

4 This Act does not apply to

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

I accept the evidence of the Applicant that they entered into an agreement to rent a bedroom within the living accommodation to which the owner resides and is located in the basement area. However, that does not mean they have a tenancy under the Residential Tenancy Act.

The Applicant does not have exclusive possession of the kitchen or bathroom in the lower level and although the landlord may not use this kitchen or bathroom it does not mean they cannot use it. Further, the Applicant is in the Respondent's kitchen going through the refrigerator and there are no locks between the two premises. I find the Applicant is sharing bathrooms and kitchens facilities with the owner of that accommodation. Therefore, I decline to hear the matter due to lack of jurisdiction.

Conclusion

I decline to hear the matter due to lack of jurisdiction.

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: April 14, 2023

Residential Tenancy Branch