



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

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DECISION

Dispute Code: MNSDS-DR

Introduction

The Applicant made an application for dispute resolution under the *Residential Tenancy Act* (the “Act”). They had sought the return of a “damage deposit.”

Preliminary Issue: Jurisdiction

In reviewing the documentary evidence submitted by the Applicant, and in asking a few questions during the hearing, I determined that the former living arrangement between the Applicant and the Respondent was essentially a roommate situation. As I explained to the Applicant, roommate-type living arrangements are outside the jurisdiction of the Residential Tenancy Branch.

The reason for this lies in section 4(c) of the Act, which excludes living accommodation that is shared between an owner, or landlord (which can include a tenant who rents out a room to a sub-tenant) and where the individuals share a kitchen or a bathroom or both.

This is reflected in *Residential Tenancy Policy Guideline 19*, which states that

Disputes between tenants and landlords regarding the issue of subletting may arise when the tenant has allowed a roommate to live with them in the rental unit. The tenant, who has a tenancy agreement with the landlord, remains in the rental unit, and rents out a room or space within the rental unit to a third party. However, unless the tenant is acting as agent on behalf of the landlord, if the tenant remains in the rental unit, the definition of landlord in the Act does not support a landlord/tenant relationship between the tenant and the third party. The third party would be considered an occupant/roommate, with no rights or responsibilities under the *Residential Tenancy Act*. (my emphasis)

For these reasons it is my finding that the Applicant’s dispute does not fall within the jurisdiction of the Act and the Residential Tenancy Branch.

The Applicant may wish to pursue legal action against the Respondent at the Provincial Court of British Columbia or at the Civil Resolution Tribunal.

Conclusion

I decline to hear the application for want 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 Act.

Dated: April 18, 2023

Residential Tenancy Branch