

DECISION

Dispute Codes:

OPB

MND

MNDC

FF

O

Preliminary Matter

This is the Landlord's application for an Order of Possession, a monetary order for damages to the rental unit, money owed for loss under the Act, and to recover the filing fee from the Tenants for the cost of the application.

The rental unit is in the basement of a house. The Landlord lives in the upstairs section of the house. At the onset of the hearing, the Landlord testified that she is the owner of the house. The Tenants testified that they shared the upstairs bathroom facilities in with the Landlord because they had no water facilities in the downstairs suite.

Section 4 of the Act states:

What this Act does not apply to

4 This Act does not apply to

- (a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,
- (b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,
- (c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,
- (d) living accommodation included with premises that
 - (i) are primarily occupied for business purposes, and
 - (ii) are rented under a single agreement,
- (e) living accommodation occupied as vacation or travel accommodation,
- (f) living accommodation provided for emergency shelter or transitional housing,
- (g) living accommodation
 - (i) in a community care facility under the *Community Care and Assisted Living Act*,
 - (ii) in a continuing care facility under the *Continuing Care Act*,
 - (iii) in a public or private hospital under the *Hospital Act*,
 - (iv) if designated under the *Mental Health Act*, in a Provincial mental health facility, an observation unit or a psychiatric unit,
 - (v) in a housing based health facility that provides hospitality support services and personal health care, or
 - (vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,
- (h) living accommodation in a correctional institution,

- (i) living accommodation rented under a tenancy agreement that has a term longer than 20 years,
- (j) tenancy agreements to which the *Manufactured Home Park Tenancy Act* applies, or
- (k) prescribed tenancy agreements, rental units or residential property.

Based on the affirmed testimony of the Landlord and the Tenants, I find that the Landlord is the owner of the accommodation and that the Tenants shared bathroom facilities with the Landlord. Therefore, pursuant to section 4(c) of the Act, I have no jurisdiction to hear this matter.

Conclusion

The Landlord's application is dismissed without leave to re-apply, for want of jurisdiction.

March 31, 2009
