

DECISION

Dispute Codes MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to obtain a Monetary Order for the return of her security deposit and to recover the filing fee for this application from the landlord.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

The issues to be decided based on the testimony and the evidence are:

- Whether the tenant is entitled to a Monetary Order under section 38 and 72 of the *Act*.

Background and Evidence

The tenant testified that her tenancy began on September 1, 2008, ended on November 29, 2008, that rent was payable on the first of each month in the amount of \$500.00 and that she paid a security deposit of \$250.00 on September 2, 2008. The tenant testified that the tenancy involved renting a bedroom, in a three bedroom home, and where she shared a common kitchen and bathroom with the two other tenants and the landlord who had turned the living room into a bedroom which the landlord occupied.

The tenant advised that while the landlord did use the common kitchen and washroom on occasion, that she mostly used the bathroom and cooked some meals in the landlord's shop that was in the back yard and is where the landlord conducted her business selling garden ornaments, flowers, and trees.

The tenant is requesting a monetary order to recover her security deposit and filing fee from the landlord.

Analysis

Section 4 of the *Residential Tenancy Act* stipulates that the *Residential Tenancy Act* does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

Based on the aforementioned testimony, I find that the tenant did share a bathroom and kitchen with the landlord who owned the property in which she was a tenant and therefore I find that the *Residential Tenancy Act* does not apply in this situation and hereby dismiss the tenant's application without leave to reapply.

Conclusion

I HEREBY DISMISS the tenant's application, without leave to reapply.

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: May 26, 2009.

Dispute Resolution Officer