

DECISION

Dispute Codes:

MNDC; FF

Introduction

This is the Tenant's application for compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the cost of the filing fee from the Landlords.

The parties gave affirmed testimony at the Hearing.

Preliminary Matters

At the outset of the Hearing, the Landlords submitted that I did not have jurisdiction to decide this matter. The Landlords submit that the Tenant was a boarder, who lived with their daughter as a roommate and was not a tenant. The Landlords stated that the Tenant paid a reduced rent because he was not entitled to the same rights as a tenant. The Landlords testified that they own the condominium and it is their second home when they come to visit their daughter. They testified that they have their own keys and that they slept in the living room on a pull out couch during visits. On one occasion when the Tenant was not there, they slept in his bedroom. The Landlords testified that they stayed in the rental unit at least 4 times a year (September, December, springtime and July or August), for up to 5 days at a time.

The Tenant stated that he was a tenant and not a boarder. He submitted that when the Landlords stayed with their daughter, they were her guests. He stated that the Landlords have a residence in a different city. The Tenant could not recall how often the Landlords stayed with their daughter.

Analysis

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

There is no requirement in the Act that the living accommodation has to be the primary residence of the owner. In this situation, the owners visited regularly, had their own keys and did not have to ask permission from the Tenant to stay.

Based on the testimony of both parties, I find that the Tenant shared bathroom and kitchen facilities with the owner of the accommodation and therefore I decline jurisdiction in this matter.

Conclusion

I decline jurisdiction in this matter pursuant to the provisions of Section 4(c) of the Act.

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, 2011.

Residential Tenancy Branch