



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call in repose to the tenant's application for the return of the security deposit.

The landlord testifies that she lives in the rental property and shares kitchen and bathroom facilities with the tenants. The landlord provided two witnesses who are also tenants of the house, who gave sworn testimony that she resides at the rental unit and shares bathroom and kitchen facilities with them. The landlord questions if the Residential Tenancy Board has jurisdiction in this matter. The landlord was given opportunity to provide a copy of her driving licence which shows her address is the same as the dispute address.

The tenant disputes this and states he has not seen the landlord cook, do laundry or stay in the house.

From the sworn verbal testimony and the documentary evidence presented it is my decision that the landlord does reside at the rental property and does share both kitchen and bathroom facilities with the tenant. Section 4 of the *Residential Tenancy Act (Act)* states that the *Act* does not apply if the rental unit is living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. Consequently, I decline jurisdiction in this matter and the tenant is at liberty to seek alternative legal remedy to resolve this matter.

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: October 25, 2011.

Residential Tenancy Branch