

DECISION

Dispute Codes MNDS

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for money owed or compensation under the Act.

Although deemed served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on October 20, 2011, a Canada post tracking number was provided as evidence of service, the landlord did not appear. I find the landlord has been duly served in accordance with the Act.

Preliminary issue

The first issue that I must decide is whether the Act has jurisdiction over the parties in order to proceed with this application.

The tenant testified that she entered into tenancy agreement with the landlord on October 1, 2010. Rent was payable in the amount of \$600.00. The tenant also paid a security deposit of \$600.00.

The tenant testified she resided with the owner in a three story townhouse and the landlord rents rooms to pay the mortgage.

The tenant further testified that there is only one kitchen in the townhouse and that it is a shared facility, even though she rarely used the kitchen.

Section 4 of the Residential Tenancy Act States

4 This Act does not apply to

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

I accept the evidence of the tenant that she entered into a tenancy agreement. However, the evidence of the tenant indicates that the Residential Tenancy Act does not apply in this case, as she was renting a room and sharing kitchen facility with the owner of the townhouse. Therefore, I find that there is no jurisdiction to proceed with this application and I dismiss her application without leave to re-apply.

Conclusion

I order that the application is dismissed without leave to re-apply due to the lack of jurisdiction under 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: January 06, 2012.

Residential Tenancy Branch