



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, AAT, FF

Introduction

This was the hearing of an application by the tenant for the return of goods and access to the rental property. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing.

Background and Evidence

I heard testimony from the parties that the respondent is the owner of the rental property, a house with a basement suite. The applicant was removed from the house by the police after an altercation with the respondent. She alleged that the respondent has refused to allow her to return to retrieve her belongings.

The respondent submitted that the *Residential Tenancy Act* has no application to this tenancy and that I do not have jurisdiction to hear this dispute. The landlord testified that the tenant shares kitchen facilities with the landlord and that she is the owner of the property.

The tenant testified that she initially rented the self-contained basement suite from the landlord in 2009. Later her boyfriend occupied the unit with her. The tenant and her boyfriend ended their relationship and she moved into two separate rooms while her ex-boyfriend continued to occupy the rental unit. She testified that after she moved out of the rental unit she used the bathroom in the rental unit and ate her meals in the landlord's kitchen in the upstairs portion of the house. The landlord testified that the tenant did share her kitchen.

Analysis and conclusion

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

Although there may have been a tenancy under the Act in the past, when the applicant as put out of possession she occupied living accommodation and shared kitchen facilities with the owner of that accommodation. I therefore find that the *Residential Tenancy Act* does not apply to this dispute and I have not jurisdiction to hear the applicant's claim. The application is dismissed for want of jurisdiction.

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 16, 2012.

Residential Tenancy Branch