



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

This hearing dealt with an Application for Dispute Resolution made by the Occupant for a monetary order for compensation under the Act or tenancy agreement.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form.

The rental unit is a bedroom in a property rented out by the Tenant. At the outset of the hearing I enquired if the Tenant was the owner of the property and he replied he was not. I enquired if the Tenant and the Occupant had entered into an agreement with the owner of the property the Landlord. The parties agreed they had not. The Tenant testified he had nothing in writing from the Landlord giving him permission to rent out bedrooms in the rental unit, it was just, "... my assumption".

There is also no tenancy agreement between the Occupant and the Landlord, where she might be considered as a tenant in common, such as when each party has their own separate tenancy agreement with a landlord. The Occupant is also not a co-tenant because she did not enter into the tenancy agreement with the Landlord and the Tenant.

The Occupant and the Tenant submitted they have a tenancy agreement with each other. I explained to the parties that even if they entered into a tenancy agreement it would not be enforceable under the Act if there is no jurisdiction for the living relationship they have under the Act. In other words, the parties are not able to agree the Act applies to them when it does not.

I find the Occupant is not a tenant under the Act, and the Tenant is not a Landlord or an Agent for the Landlord under the Act, and therefore, there is no jurisdiction under the Act to resolve this dispute.

The parties were advised to enquire with the Provincial Court (Small Claims Division) as to their next steps.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: December 11, 2012.

Arbitrator
Residential Tenancy Branch