



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, PSF, RPP, LRE, OPT, FF

Introduction

This hearing was convened by way of conference call in response to the tenants application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for an Order for the landlord to comply with the *Act*, regulations or tenancy agreement; for an order for the landlord to provide services or facilities required by law; for an Order for the landlord to return the tenants personal property; to suspend or set conditions on the landlords right to enter the rental unit; to obtain an Order of Possession of the rental unit and to recover the filing fee from the landlord for the cost of this application.

The parties attended the conference call hearing, gave sworn testimony. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing.

Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the tenant entitled to an Order for the landlord to comply with the *Act*?
- Is the tenant entitled to an Order for the landlord to provide services or facilities?
- Is the tenant entitled to an Order for the return of personal belongings?
- Is the tenant entitled to an Order to suspend or set conditions on the landlord's right to enter the rental unit?

- Is the tenant entitled to an Order of Possession?

Background and Evidence

The applicant testifies that she moved into this rental unit and paid \$415.00 in rent for March 01, 2013 to March 31, 2013. The applicant testifies that on March 21, 2013 the respondent entered the unit and placed the applicant's belongings in garbage bags. The applicant testifies that she unpacked her belongings and when she returned to the unit the next day the applicant found the landlord had placed the applicant's belongings in the laundry room. The applicant testifies that her belongings remain in the rental unit and the landlord's son and his girlfriend have occupied the unit from March 26, 2013.

The applicant seeks to recover some of the rent paid and seeks to recover \$150.00 for a video camera, \$42.99 for a black light bulb that was damaged and \$50.00 for a laser light.

The respondent testifies that no tenancy agreement was created between the parties. The applicant had a child with the respondent's son and the respondent has custody of that child. The respondent testifies that she let the applicant stay in the basement unit for one month and agrees the applicant gave the respondent \$415.00 for room and board. The respondent testifies that the applicant shared the respondent's kitchen and eats meals there with the respondent and the applicant's child. The applicant often slept in her son's bedroom. The respondent testifies that this was family arrangement and not a tenancy.

The applicant testifies that the respondent had their own kitchen and bathroom. The applicant had a separate bathroom and a hotpot and fridge in her unit. The applicant agrees that the respondent would cook meals for her and that she eat with them in the respondent's kitchen. The applicant testifies that only occasionally did she sleep in her son's bedroom.

Analysis

Section 4(c) of the *Residential Tenancy Act* states that the *Act* does not apply for living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. The tenant has the burden of proof to show that a tenancy agreement had been agreed either in writing or verbally and although the tenants receipt for money paid shows this as rent there is little else to determine that a tenancy was in place and not that this was a family arrangement between the parties allowing the applicant to live in the basement of the home. I further find that as the tenant shared some use of the kitchen facilities that the *Act* does not apply in this matter.

Conclusion

Consequently, I decline jurisdiction in this matter and the application is dismissed without leave to reapply.

The applicant is at liberty to seek alternative legal remedy.

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: April 15, 2013

Residential Tenancy Branch