



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, FF

Introduction

This hearing was convened in response to an application by the tenant for a Monetary Order pursuant to the *Residential Tenancy Act* (the Act) in the amount of \$1005.18. The tenant withdrew all other claims from their application as they are no longer relevant.

Both parties attended the conference call hearing and each was given opportunity to participate and make submissions. The tenant has vacated the rental unit.

Preliminary matters

During this hearing the parties agreed in their testimony that the rental unit consisted of a room of the residential property and that the tenant and other similar tenancies on the property shared the bathroom and kitchen facilities of the residential property. The parties agreed the length of the tenancy was for almost 3 months. The landlord testified they are the owner of the house and they also exclusively occupy one of the rooms of the residential accommodations on the property - outside of the main house, attached to the garage - for a portion of each month. The landlord testified that currently they are residing on the residential property. The landlord testified that they routinely stay on the property and routinely work there, and that they receive their mail there. The tenant testified that they spent approximately one half of their 3 months in the room of their tenancy, and are doubtful the landlord spent as much time on the residential property as they claim. The landlord testified that when the tenant was there they would not always

engage the tenant, or announce they too were there. The landlord testified that as they occupy only a room on the residential property they are compelled to use the shared bathroom and kitchen facilities of the residential accommodations.

Analysis

Section 4 of the *Residential Tenancy Act* (the Act), in part, states as follows;

What this Act does not apply to

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,

Based on the testimony of the landlord and that of the tenant, I find that during this tenancy the tenant shared the bathroom and kitchen with the owner of the rental unit and as a result I find the Act does not apply to this tenancy and **I must decline jurisdiction**, and **I dismiss** the tenant's application for a monetary Order. The parties are at liberty to seek resolution of their issue(s) elsewhere.

Conclusion

I do not have jurisdiction to hear this application.

The tenant's application for a monetary Order **is dismissed**, without leave to reapply.

This Decision is final and binding on both parties.

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 14, 2013

Residential Tenancy Branch