



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI MNDC OLC OPT

Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) by the tenant to dispute an additional rent increase, for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for an order compelling the landlord to comply with the *Act*, regulation or tenancy agreement, and for an order of possession of the rental unit.

The tenant and the landlord attended the hearing.

Preliminary issue and Background

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

The parties agreed that the tenant was renting a room in the landlord’s townhouse which the landlord owns. The parties also agreed that they shared the kitchen and bathroom.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find the following.

Section 4 of the *Act* states:

What this Act does not apply to

4 This Act does not apply to

- (a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,

(b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,

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

(d) living accommodation included with premises that

(i) are primarily occupied for business purposes, and

(ii) are rented under a single agreement,

(e) living accommodation occupied as vacation or travel accommodation,

(f) living accommodation provided for emergency shelter or transitional housing,

(g) living accommodation

(i) in a community care facility under the *Community Care and Assisted Living Act*,

(ii) in a continuing care facility under the *Continuing Care Act*,

(iii) in a public or private hospital under the *Hospital Act*,

(iv) if designated under the *Mental Health Act*, in a Provincial mental health facility, an observation unit or a psychiatric unit,

(v) in a housing based health facility that provides hospitality support services and personal health care, or

(vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,

(h) living accommodation in a correctional institution,

(i) living accommodation rented under a tenancy agreement that has a term longer than 20 years,

(j) tenancy agreements to which the *Manufactured Home Park Tenancy Act* applies, or

(k) prescribed tenancy agreements, rental units or residential property.

[emphasis added]

As the *Act* does not apply to living accommodation in which the tenant shares a bathroom or kitchen facilities with the owner of that accommodation, **I find** that the *Act* does not apply to this dispute. The parties clearly agree that the tenant shared both a

bathroom and the kitchen facilities with the landlord who also owned the accommodation. Based on the above, **I find** that there is no jurisdiction to hear this dispute. Therefore, **I dismiss** the tenant's application without leave to re-apply.

Conclusion

The tenant's application is dismissed due to lack of jurisdiction.

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 *Residential Tenancy Act*.

Dated: May 28, 2013

Residential Tenancy Branch

