



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order cancelling a 1 Month Notice to End Tenancy for Cause (the "Notice") and for a monetary order for money owed or compensation for damage or loss.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence.

I have reviewed all oral and documentary evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the Notice and to monetary compensation?

Does this dispute fall under jurisdiction of the Residential Tenancy Act?

Background and Evidence

The tenant said that he has acted as the manager of the residential property for several years, renting out different rooms in the residential property for the landlord. The tenant testified that he himself rents a room in the ground level, since September 1, 2011, and uses other areas of the residential property for his own use, including the kitchen in the upper level. No other tenants use this kitchen.

During the lengthy oral submissions of the party in support of and in response to the landlord's Notice, it came to light that the tenant and the landlord share the same kitchen facility in the residential property, which is owned by the landlord and where the landlord resides.

Analysis

Section 4 (c) of the *Act* states that the Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. In this case, the tenant and the landlord each confirmed that they share a kitchen facility.

In light of the above, I find that the living accommodation meets the above criteria for exclusion under the Act, and I therefore decline to find jurisdiction to resolve this dispute.

The parties are at liberty to seek the appropriate legal remedy to this dispute.

Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute and I have declined 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* and is being mailed to both the applicant and the respondent.

Dated: July 09, 2013

Residential Tenancy Branch