



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, MNDC, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For a monetary order for unpaid rent;
2. To keep all or part of the security deposit; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. Return all or part of the security deposit;
2. For a monetary order for money owed; and
3. To recover the cost of filing the application.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Preliminary Issue

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

The landlord testified that they rent rooms in their home, primarily to student and that they share the common areas, including the kitchens and bathrooms. The landlord stated that there are two kitchens in their home, and are accessible to all those who reside on the property, including themselves as they often cook meals for the student in the either of the kitchens.

The agent for the tenant stated the tenant did not use the upper kitchen and believes this tenancy agreement is different than the other occupants who rent rooms.

Section 4 of the Residential Tenancy Act defines what the Act does not apply to. The Act states, it 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 evidence supports that owner of the property rents rooms, and that all occupants including the owner have access to all the common areas, including the kitchens and bathrooms. Therefore, I find that there is no jurisdiction to proceed with either application due to lack of jurisdiction.

Conclusion

I order that both applications be dismissed without leave to reapply due to the lack of jurisdiction under the Act.

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: July 02, 2013

Residential Tenancy Branch