



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This was the hearing of an application by the tenant for a monetary award and payment of the filing fee for this application. The hearing was conducted by conference call. The tenant and the named landlord called in and participated in the hearing.

Background and Evidence

The rental unit is a strata title apartment in Burnaby. The named landlord is the executrix of her deceased sister's estate. The estate is the current registered owner of the rental unit. The rental unit was purchased as accommodation for the daughter of the deceased. The daughter is the beneficial owner of the rental unit.

The tenant was involved in a relationship with the daughter. He moved into the rental unit with her in July, 2013 and he signed a tenancy agreement with the landlord whereby he agreed to pay monthly rent in the amount of \$425.00 commencing August 1, 2013. When the relationship between the tenant and the daughter broke down the tenant was compelled to move out of the rental unit in mid-December. He was not given a Notice to End Tenancy and in this application he has claimed for the return of rent for December and damages equivalent to a further month's rent for what he claimed was his wrongful eviction.

During the tenant's occupation of the rental unit he shared the kitchen and bathroom facilities with the daughter.

Analysis and conclusion

Section 4 of the *Residential Tenancy Act* provides that the Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

Although the current registered owner of the rental unit is the estate, it was confirmed at the hearing that the deceased's daughter who lives in the apartment is the beneficial owner of the unit and when the applicant was put out of possession he occupied living accommodation and shared kitchen facilities with the owner of that accommodation. I therefore find that the *Residential Tenancy Act* does not apply to this dispute and I have not jurisdiction to hear the applicant's claim. The application is dismissed for want of jurisdiction.

During the hearing the parties engaged in a settlement discussion and arrived at an agreement between them with respect to a resolution of the tenant's claim, however that settlement was a private matter between the 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: April 11, 2014

Residential Tenancy Branch

