



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, PSF, RPP, FF,O

Introduction

This was an application for compensation as a result of an alleged wrongful eviction, to recover the value of belongings withheld by the respondent or alternatively an Order for the return of personal belongings. Both parties attended the hearing.

Issue(s) to be Decided

Is there a valid tenancy?

Is the applicant entitled to relief?

Background and Evidence

The applicant testified that she signed a tenancy agreement with Z.M. a co-owner of the house in which her unit was situated and moved in on or about the end of August 2013. She testified that on February 2, 2014 the respondent a co-owner of the house in which her unit was situated forcefully evicted her, removed her belongings, destroying some and keeping the rest. The applicant is claiming over \$ 22,000.00 for the value of her belongings, moving expenses and rent differential incurred because of the wrongful eviction.

The respondent testified that she operates a rooming house in which she resides at least half of the time and that she shares a kitchen and bathroom with all of the occupants including the applicant herein. She admitted to evicting the applicant but that it was not forceful and was respectful. The applicant testified that she returned all of the respondent's belongings except for a portable computer which she retained for the non-payment of rent.

The applicant admitted that she resided in a room in the house which the respondent dwelled in part-time and that they shared a bathroom and kitchen.

Analysis

Section 4 (c) of the act 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,

In this matter both parties admit that the respondent is an owner of the house in which the unit was situated, and that they shared a kitchen and bathroom. I therefore find that the Residential Tenancy Act does not apply to this living arrangement and that there is not a legal tenancy. Accordingly I have dismissed all of the applications herein.

Conclusion

I have dismissed all of the applications herein. There is not a lawful tenancy governed by the Act. There will not be any recovery of the filing fee.

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 01, 2014

Residential Tenancy Branch

