



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, RPP, AAT

Introduction

This matter dealt with an application by the Tenant to recover the security deposit, to recover personal property and to gain access to the rental unit.

At the start of the hearing it was also discussed that the Landlord had made an application but it was not filed in time to be included in this hearing. The Landlord understood that his application was to be heard on January 6, 2015.

The Applicant said he served the Respondent with the Application and Notice of Hearing (the "hearing package") by registered mail on June 3, 2014. Based on the evidence of the Applicant, I find that the Respondent was served with the Applicant's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

At the start of the conference call it was determined that the arrangement between the parties was not a tenancy, because the Applicant and the Respondent shared kitchen and bathroom space and the living quarters were not separated by a door that locked. Section 4(c) of the Act states that the Act does not apply to situation where there is shared kitchen and bathroom with the owner of the property. Consequently there is no tenancy between the Applicant and the Respondent; therefore I do not have jurisdiction to make a finding in this matter. The Applicant may want to seek legal advice to determine how to proceed with his claims.

In the absence of evidence to show there is a tenancy between the Applicant and Respondent the Residential Tenancy Branch does not have jurisdiction in this situation. I dismiss the application as I find no authority to decide this matter under the *Residential Tenancy Act*.

Conclusion

The application is dismissed for lack of 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*.

Dated: July 22, 2014

Residential Tenancy Branch

