



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT, MNDC, MNSD, O

Introduction

This matter dealt with an application by the Tenant for the return of the security deposit, for compensation for damage or loss under the Act, regulations and tenancy agreement, for an Order of Possession for the Tenant and for other consideration.

At the start of the conference call the Landlord/Respondent submitted a request for a decision on whether the Residential Tenancy Branch had jurisdiction in this situation. The Landlord/Respondent said believed the living arrangement was shared accommodation. The Landlord/Respondent submitted a copy of the living arrangement with the Applicant and in that agreement the Applicant has signed that he agreed the living arrangement is shared accommodation with the owner and the owner shares bathroom and kitchen facilities with the Applicant.

The Tenant/Applicant said he believed that the Landlord/Respondent was not to use the bathroom and or the kitchen although the Landlord did use the kitchen and at the start of the tenancy the Applicant said the Respondent use the bathroom. The Tenant/Applicant's Advocate said that they thought it was the kitchen or the bathroom not both rooms.

Further the Tenant/Applicant did not submit any corroborative evidence to prove the rental unit did not have a shared bathroom and kitchen with the Landlord/Respondent.

It is the responsibility of the applicant to prove his claims with testimony and corroborative evidence. I find the Tenant/Applicant has not proved that the living arrangement was not shared accommodation. I accept the Landlord's occupancy agreement that establishes grounds that the living arrangement was shared accommodation. 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 Tenant's 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: October 06, 2014

Residential Tenancy Branch

