



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, MNSD

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act*, for a monetary order for the return of double the security deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

The tenant made application on August 22, 2014 and moved shortly after. The landlord stated that she was not informed of the tenant's change of address and accordingly mailed her evidence to the incorrect address. Even though the tenant had not received the landlord's evidence, I decided to begin the hearing and adjourn later if necessary.

Issues to be Decided

Is the tenant entitled to the return of double the security deposit?

Background and Evidence

The tenancy started on March 01, 2014 and ended on August 15, 2014 by mutual agreement. The rental unit consisted of a furnished unit in the basement of the landlord's home. The landlord occupied the upper level of the home.

Both parties agreed that the landlord and tenant shared the use of the washroom and the refrigerator in the basement. The landlord testified that she is the owner of the rental property.

Analysis

Based on the above facts I find that the owner and tenant shared the washroom and the refrigerator in the kitchenette that was part of the tenant's space.

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

Conclusion

The circumstances of the dispute do not fall within the jurisdiction of the *Act*, and the application must therefore be dismissed. The tenant is at liberty to pursue other remedies under common law.

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: March 19, 2015

Residential Tenancy Branch

