



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, O

Introduction

This hearing was set to hear an application by the tenant for a monetary order. The Respondent appeared at the start of the hearing; the Applicant did not.

Preliminary Issue(s) to be Decided

Does the Residential Tenancy Branch have jurisdiction over this dispute?

Background and Evidence

The landlord advised that he rents the property from another person and sublet a room to the tenant.

Analysis

The Residential Tenancy Branch has been created by statute, the *Residential Tenancy Act*, and can only resolve disputes that are within the jurisdiction created by the statute.

Section 2 states that the *Act* applies to all tenancy agreement.

“Tenancy agreement” is defined by the *Act* as an agreement, written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas, and services and facilities.

“Landlord” is defined as:

- the owner of the rental unit;
- the owner’s agent;
- a person acting on behalf of the owner; or,
- a person, other than a tenant occupying the rental unit, who is entitled to possession of the rental unit and exercises any of the rights of a landlord under a tenancy agreement.

The landlord is renting the entire unit from the owner of the property. This makes him a tenant occupying a rental unit. As such, he is exclusively excluded from the definition of

landlord and therefore, any arrangement she makes to sublet a portion of the rental unit is excluded from the operation of the *Residential Tenancy Act*. Accordingly, the Residential Tenancy Branch does not have jurisdiction over this dispute.

Conclusion

The application is dismissed because the Residential Tenancy Branch does not have jurisdiction over this dispute.

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: May 26, 2015

Residential Tenancy Branch

