



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OLC

Introduction

This hearing concerns the tenant's application for an order instructing the landlord to comply with the Act, Regulation or tenancy agreement. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

- Whether the circumstances of this dispute fall within the jurisdiction of the Act.
- If the circumstances of this dispute fall within the jurisdiction of the Act, whether the tenant is entitled to the order sought.

Background and Evidence

The unit which is the subject of this dispute is located in the basement portion of a house. The landlord, who is also the owner, resides in the upstairs portion of the house.

There is no written tenancy agreement for this tenancy which began on or about April 27, 2015. Monthly rent is \$300.00. No security deposit was collected.

The tenant objects to the landlord's entry into the basement portion of the house without notice. However, the landlord testified that shared laundry, bathroom and kitchen facilities are located in the basement, even while the landlord also has separate bathroom and kitchen facilities in the upstairs portion of the house. The landlord also testified that the shared nature of laundry, bathroom and kitchen facilities in the basement was made clear to the tenant when tenancy began. It does not appear, however, that the tenant considers there was any such clear understanding between the parties when tenancy began. In any event, while testimony is conflicting, both parties acknowledge that the relationship between them is not harmonious, and the tenant testified that his intention is to vacate the unit by no later than September 15, 2015.

Analysis

Section 4 of the Act addresses **What this Act does not apply to**, in part:

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,...

Based on the documentary evidence and affirmed testimony of the parties, and in the absence of a written tenancy agreement, I find on balance that the tenant shares bathroom and kitchen facilities with the owner of the unit. In the result, I decline jurisdiction over the dispute.

Conclusion

I find that the circumstances of this dispute do not fall within the jurisdiction of the Act. Accordingly, the merits of the tenant's application for an order instructing the landlord to comply with the Act, Regulation or tenancy agreement will not be considered.

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: September 01, 2015

Residential Tenancy Branch

