



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RELIANCE PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenant for the return of the security deposit.

At the start of the conference call the Landlord said the rental unit was used for commercial purposes as well as residential use. The Landlord continued to say there is a clause in the tenancy agreement that indicates that 70% of the unit is used for commercial purposes and only 30% is deemed for residential use. The Landlord said this makes this tenancy and the rental agreement outside of the jurisdiction of the Residential Tenancy Act. The Landlord requested that the Tenant's application be dismissed due to lack of jurisdiction by the Residential Tenancy Act.

The Tenant said she had read the clause in the tenancy agreement and she understood it, but she was told by the Residential Tenancy Branch that because this was her primary residence the application would qualify.

Section 4(d) of the Act says: The Act does not apply to living accommodation included with premises that,

- (i) are primarily occupied for business purposes, and
- (ii) are rented under a single agreement,

In this situation the rental agreement says that 70% of the unit is for commercial purposes and the agreement for both the commercial use and residential use are both under one agreement. I find the Landlord has established grounds to show the Residential Tenancy Act does not have jurisdiction in this situation.

I find 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: October 26, 2015

Residential Tenancy Branch

