



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing involved an Application made by the Applicant, claiming for return of a security deposit and the filing fee for the Application, under the Residential Tenancy Act (the “Act”).

Both parties appeared at the hearing by teleconference. The hearing process was explained and the participants were asked if they had any questions.

At the outset of the hearing the Respondent stated that she did not think the tenancy was covered under the Act. She explained that she shared the kitchen and bathroom facilities with the Applicant. The Respondent also stated she was the owner of the property.

The Applicant agreed that she shared the kitchen and bathroom facilities with the Respondent, and as far as she knew the Respondent was the owner of the property.

Preliminary Issues

After I informed the Applicant that this dispute could not be resolved under the Act (as explained below), the Applicant became very upset. Following this both parties became quite argumentative with each other and did not listen to me at all. I placed the parties on hold in order to attempt to calm the parties; however, both parties disconnected from the call at that point.

Analysis

The Act does not protect every type of living accommodation in the Province of British Columbia. Section 4 of the Act explains that certain specified situations are not subject to the Act, as follows below:

4. This Act does not apply to

(a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,

(b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,

(c) **living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,**

...

[Bold **emphasis** added.]

As the living accommodation is excluded from the Act, there is no jurisdiction for this dispute under the Act and no jurisdiction for me to hear the dispute.

Conclusion

The Applicant and Respondent shared kitchen and bathroom facilities, and therefore, this living accommodation is excluded under section 4 of the Act.

The Applicant was advised to seek legal advice on the proper court in which to bring her claim against the Respondent.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: October 05, 2015

Residential Tenancy Branch

