



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This is an application brought by the tenant requesting a monetary order in the amount of \$920.20 and recovery of the \$50.00 filing fee

The applicant(s) testified that the respondent was served with notice of the hearing by registered mail that was mailed on July 4, 2015; however the respondent did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

The applicant was affirmed.

Decision and reasons

The first issue I dealt with was a preliminary matter regarding jurisdiction, and it is my finding that the Residential Tenancy Act does not have jurisdiction over this case.

Section 2 of the Residential Tenancy Act states:

2 (1) Despite any other enactment but subject to section 4 [*what this Act does not apply to*], this Act applies to tenancy agreements, rental units and other ***residential property***. (My highlighting)

In this case however this rental unit is not strictly a residential property, as in the tenancy agreement it states that 50% of the rental unit is being used commercially.

It's my finding therefore that since a good portion of this rental agreement is a commercial agreement, the Residential Tenancy Act does not have jurisdiction over this dispute, as the Residential Tenancy Act only covers disputes arising from residential tenancies.

Conclusion

I declined jurisdiction over this matter and the applicant will have to look to Small Claims Court if they wish to pursue this matter further.

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: December 08, 2015

Residential Tenancy Branch

