



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNQ, MNDC, OPT, LAT, SS, O

Introduction

This hearing was set to hear the tenant's application for a variety of orders. By the date of the hearing the tenant was no longer living in the unit leaving a claim for a monetary order against the landlord. Both parties appeared and had an opportunity to be heard.

Preliminary Issue(s) to be Decided

Does the Residential Tenancy Branch have jurisdiction over this dispute?

Background and Evidence

The landlord owns the house in which the tenant rented a room.

The tenant testified that when he moved into the house there were nine other tenants and they all rented the house together. His rent was paid directly to the landlord by the Ministry. The landlord did not live in the house; she lived with her boyfriend. About eight months after the start of the tenancy the landlord evicted one of the tenant's and moved back into the house. He acknowledged that since that date the landlord and the tenants share the same kitchen and bathrooms.

The landlord testified that at first she was spending most of her time at her boyfriend's home but she was always going back and forth between the two houses.

The tenant responded that during that time she was just supervising the property as a landlord; she was not living there.

Analysis

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

Section 4(c) of the *Act* specifically provides that it does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

Had this dispute arisen during the period that the landlord was either living at her boyfriend's house or splitting her time between the two homes I would probably have found that the Residential Tenancy Branch had jurisdiction over the dispute because the landlord was not using the kitchen and/or bathroom facilities at this house exclusively. However, the dispute arose during the period that the landlord and tenant were sharing bathroom and/or kitchen facilities, thus bringing this tenancy squarely within the wording of section 4(c). For this reason, I find that the Residential Tenancy Branch does not have jurisdiction over this dispute.

Conclusion

For the reason set out above I find that 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: October 13, 2016

Residential Tenancy Branch

