



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover the security deposit and to recover the filing fee from the landlord for the cost of this application.

The tenant and an agent for the tenant attended the conference call hearing and gave sworn testimony. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord did not appear at the hearing. I have reviewed all oral and written evidence before me.

Preliminary Issues

The matter of jurisdiction was discussed at the start of hearing. The tenant submitted that she shared a kitchen with the landlord and owner of the property.

Analysis

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

In this case, I find that the tenant provided submissions that the landlord is the owner of the property and did share the kitchen with the tenant.

In light of the submissions before me, I have considered the matter of Jurisdiction in this matter. I find the landlord is the owner of the property and the tenant did not have exclusive possession of the rental unit as they shared the kitchen. As a result, I find that based on the above reason, the *Act* does not apply and therefore the Residential Tenancy Branch does not have jurisdiction in this matter.

I explained to the parties that they are at liberty to pursue these matters using other legal remedies.

Conclusion

The tenant's application is dismissed pursuant to section 62(4)(b) of the *Act*.

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 06, 2016

Residential Tenancy Branch