



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT, MNDC, MNSD, RPP, AAT, LAT, LRE, OLC

Introduction

On July 19, 2016, the Tenant submitted an Application for Dispute Resolution asking for an order of possession; a monetary order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement; for the return of the security deposit; to return the Tenants personal property; to allow access to or from the unit; to restrict the Landlords right of entry; and for an order for the Landlord to comply with the Act, Regulation or tenancy agreement.

The matter was set for a conference call hearing. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence, orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issues

The Respondent confirmed that she received the Applicant's documentary evidence and compact disc. The Respondent stated that she was too busy prior to the hearing to look at the contents of the compact disc.

The Applicant testified that he is not seeking an order of possession to move back into the rental unit. The Applicant confirmed that he is only seeking monetary compensation.

The Application contains a request for \$550.00. The Applicants documentary evidence contains a monetary order worksheet that indicates he is claiming \$1,100.00.

The Residential Tenancy Branch ("the RTB") Rules of Procedure permit an Applicant to amend a claim but requires that the Amended Application must be filed with the RTB and must be properly served on the Respondent.

The Applicant failed to correctly amend his claim, and therefore the monetary claim will remain at \$550.00. The Applicants request for an order of possession, access and right of entry are dismissed.

Issues to be Decided

- Does the Act apply to the living arrangement?
- Is the Tenant entitled to a monetary order for the return of rent?
- Is the Tenant entitled to the return of the security deposit?

Background and Evidence

The issue was raised as to whether or not this living arrangement is a tenancy under the *Residential Tenancy Act*.

Section 4 of the Act states the Act does not apply to living accommodation in which the Tenant shares bathroom or kitchen facilities with the Owner of that accommodation.

The parties were asked to make submissions on the issue of whether or not this is a tenancy.

The Respondent testified that the Applicant came to her house and asked to rent a room. She showed the Applicant the room and the rest of the house. She testified that the Applicant rented a room and had access to the upstairs kitchen and bathroom of the house.

The respondent testified there is no written tenancy agreement. She testified that the Applicant was told he could cook in the kitchen and take showers in the bathroom. The Respondent testified that at night, she locked a door that separates the downstairs rooms from the top of the house.

The Applicant provided inconsistent testimony on the living agreement. The Applicant initially testified that he only rented a room and did not share a kitchen or bathroom with the respondent. The Applicant later testified that when he met with the Landlord they discussed the arrangement and the Applicant believed he was to have use of the upstairs areas including the kitchen and bathroom. He testified that when he attempted to use the upstairs areas the Respondent told him he had to earn the privilege by doing chores.

The Applicant testified that the Respondent was restricting his access to the upstairs area.

The Applicant testified that an argument ensued between the parties and the Respondent locked him out of the house and changed the locks.

The Applicant is seeking the return of November 2016, rent and the return of the security deposit.

The Respondent testified that she already returned November 2016, rent to the Ministry along with the Applicants security deposit.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Both parties testified that the living arrangement allowed the Applicant to use the upstairs area of the house. While there may have been some restriction to the Applicants use of the upstairs areas, I find that the Agreement was that reached was that the Applicant would be sharing the bathroom and kitchen with the owner of the house. Therefore, pursuant to section 4 of the Act, I find that the Act does not apply to this living arrangement.

Based on the above facts, I find I do not have jurisdiction to hear this Application.

I dismiss the Application requesting a monetary order in the amount of \$550.00.

Conclusion

The Applicant entered into a living arrangement in which he shared the bathroom and kitchen with the owner. I find I do not have jurisdiction to hear this Application.

The Application is dismissed

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 15, 2016

Residential Tenancy Branch