



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened in response to an application pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Applicant and Respondent were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matter

The Respondent was represented by an Agent who was also named as an Applicant. The Agent states that he was not part of the rental arrangement that was solely between the first named Applicant and the Respondent. Given this evidence I amend the application to remove the second named Applicant.

Issue(s) to be Decided

Does the Act apply to the dispute?

Background and Evidence

The Respondent states that she owns the house containing the unit, described as a room. The Respondent states that the room was rented with the Respondent sharing the kitchen and bathroom with the Applicant. The Applicant agrees that the Respondent owns the house and states that the kitchen was never shared. It is noted that the

application indicates that the Applicant never moved into the unit but paid a security deposit.

Analysis

Section 4 of the Act provides that the Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. Given the Applicant's tacit agreement with the Respondent's evidence, I accept that the unit was rented for living accommodation that included the sharing of either the kitchen or bathroom with the Respondent who owns the house. I therefore find that the Act does not apply to the dispute.

Conclusion

The Act does not apply to the 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: February 21, 2017

Residential Tenancy Branch

