



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement.

Both parties 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 confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure.

Preliminary issues

At the outset of the hearing it was determined that the tenant rents a room or shed as part of this residential property. The tenant has a mini fridge and a hotplate in this room in the yard but does not have running water or bathroom facilities. The tenant uses the bathroom in the main house and shares this with the landlord, who is also the owner of the property, and other tenants and a daycare which the landlord operates from this property.

Both parties gave testimony regarding the bathroom facilities and the fact that they are a shared facility between the tenant and the owner/landlord.

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 and landlord both provided testimony that the landlord is the owner of the property and did share the bathroom with the tenant. Although the tenant rents a shed in the yard this is still on the property and connected to the main house as it does not have its own water supply, kitchen or bathroom and therefore cannot be viewed as a separate unit.

Consequently, in light of the testimony before me, I have considered the matter of jurisdiction and I find the landlord is the owner of the property and the bathroom facilities in the main house are shared with the tenant and landlord/owner of the property. As a result, I find 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 attempt to resolve the tenant's issues between themselves or the tenant may pursue these matters using other legal remedy.

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: June 06, 2017

Residential Tenancy Branch