



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Applicant for “Other” issues, namely for a refund of rent paid, and recovery of the filing fee from the Landlord.

Both parties appeared and provided affirmed testimony. The Respondent confirmed receipt of the Application by mail. Only oral testimony was considered in this hearing.

Jurisdictional Issues

Before considering and dealing with the Applicant’s request for a refund in rent, the Respondent submitted that the *Residential Tenancy Act* (the “Act”) does not have jurisdiction in this dispute. The Respondent explained that no tenancy had been entered into between the parties and that the Respondent was the owner of the dispute property who shared a kitchen and bathroom with the Applicant who had occupied one of the bedrooms in his three bedroom residential home.

The Applicant confirmed that the Respondent was the owner of the dispute address and that he indeed did share a kitchen with the Respondent but had his own bathroom. The Applicant stated that he was not aware of any provision in the legislation that meant that the dispute could not be determined in this hearing.

Jurisdictional Analysis

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

I accept the undisputed evidence that the Respondent in this case is the owner of the home to which this dispute relates to. Furthermore, I find that because the Applicant and the Respondent shared a kitchen in the same home, Section 4(c) of the Act applies in this case.

Therefore, based on undisputed evidence before me, I must decline jurisdiction in this matter as I have no authority to make a legal binding decision on the Applicant's claims.

Conclusion

The Applicant shared kitchen facilities with the Respondent owner of the dispute address. Therefore, the Act does not apply and I have no jurisdiction to resolve this dispute. The parties are at liberty to seek alternative legal remedy.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 10, 2017

Residential Tenancy Branch