



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, MNR, MNSD, MNDC, O, RPP

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Applicant to: dispute an additional rent increase; for a Monetary Order; and for the return of personal property.

Both parties appeared for the hearing and provided affirmed testimony. The Respondent confirmed personal receipt of the Application. The parties agreed to amend the Application to include the correct legal name of the Landlord. Only oral testimony was considered in this hearing.

Jurisdictional Issues

Before considering and dealing with the Applicant’s claims, I asked the parties to provide evidence on the nature of this tenancy.

The Applicant testified that he rented out a single room in the basement portion of the Respondent’s home. The Applicant confirmed that he only rented the room and that he shared kitchen and bathroom facilities with the Respondent who mainly resided in the upper portion of the home.

The Applicant confirmed that the Respondent regularly came to the basement suite of the home and used the kitchen and bathroom facilities. In addition, there was no separate locked entrance to the basement portion for the Applicant’s exclusive use.

The Respondent, who is the owner of the home, confirmed the Applicant’s testimony and stated that the Applicant only has exclusive possession of his room. The Respondent stated that he used every other part of the house including the kitchen and bathroom facilities in the basement suite.

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 and bathroom 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 and bathroom 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: September 22, 2017

Residential Tenancy Branch