



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNSD, CNC, LA, LRE, FF

Introduction

This was a cross-application hearing.

On September 28, 2017 the tenant applied requesting compensation for damage or loss under the Act, return of the security deposit, to cancel a notice ending tenancy for cause, an order allowing the tenant to change the locks, that conditions be placed on the landlords' right to enter the rental unit and to recover the filing fee cost from the landlord.

On November 14, 2017 the landlord applied requesting an order of possession and compensation for damage or loss and to recover the filing fee cost.

Both parties were affirmed.

The parties confirmed that the tenancy ended between November 11 and 15, 2017.

After taking testimony in relation to the service of documents the tenant applicant provided testimony that the tenant and landlord respondent reside in the same home. The tenant applicant had use of an area in the lower level of the home. The tenant applicant said that up until September 2017 the tenant applicant used the landlord respondents' kitchen in the upper portion of the home on a daily basis.

The landlord respondent confirmed that the landlord is the owner of the home and that the landlord and tenant have been sharing kitchen facilities.

Section 4 of the Act provides, in part:

What this Act does not apply to

4 This Act does not apply to

(a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,

(b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,

*(c) **living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation...***

(Emphasis added)

It was explained that as the tenant has been sharing kitchen facilities with the landlord, in a home owned by the landlord, that jurisdiction must be declined.

The landlord said that the tenant had been informed that the Act did not apply. The landlord submitted an application to allow for any decision that might find jurisdiction applied.

Conclusion

Jurisdiction is declined.

This decision is final and binding and 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 13, 2017

Residential Tenancy Branch