



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC

Introduction

This matter dealt with an application by the Tenant to recover the security deposit and for compensation for loss or damage under the Act, regulations or tenancy agreement.

The Applicant said he served the Respondent with the Application and Notice of Hearing (the “hearing package”) by registered mail on September 14, 2017. Based on the evidence of the Applicant, I find that the Respondent was served with the Applicant’s hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

At the start of the conference call it was determined that the arrangement between the parties was not a tenancy, because the Applicant and the Respondent shared kitchen and bathroom space in the rental unit and the rental unit is owned by the Landlord.

Section 4(c) of the Act states that the Act does not apply to situation where there is shared kitchen and bathroom with the owner of the property. Consequently, there is no tenancy between the Applicant and the Respondent. Therefore, I do not have jurisdiction to make a finding in this matter.

The Applicant may want to seek legal advice to determine how to proceed with his claims.

In the absence of evidence to show there is a tenancy between the Applicant and Respondent the Residential Tenancy Branch does not have jurisdiction in this situation. I dismiss the application as I find no authority to decide this matter under the *Residential Tenancy Act*.

Conclusion

The application is dismissed for lack of jurisdiction

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: April 3, 2018

Residential Tenancy Branch