



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, FF

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act*, for a monetary order for compensation and for the filing fee. Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves.

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of each other's evidence package. I find that evidence was served in accordance with sections 88 and 89 of the *Act*.

Issues to be Decided

Is the tenant entitled to a monetary order?

Background and Evidence

The tenancy started on February 04, 2017 and ended on August 31, 2017. The monthly rent was \$500.00 payable on the first of each month. The rental unit consists of a room in the basement of a home that is occupied by the landlord and his family. The landlord is also the owner of the home.

The landlord testified that he rents out three rooms in the home to three individual tenants. Each of the tenants has a separate tenancy agreement with the landlord. All tenants are provided with a list of the house rules and a copy is also posted on the refrigerator.

The house rules clearly explain the private and common areas of the home. The three private rooms are located in the basement of the home. The common area consists of a kitchen, a wash room and a living room. The landlord stated that he shares the common area with the tenants. The tenant confirmed that the landlord used the washroom on occasion. The landlord stated that his wife uses the kitchen sometimes. The landlord added that he has a kitchen and wash room on the upper floor but also uses the facilities in the basement.

The main complaint of the tenant was that the landlord was in the common area in the basement on a regular basis and on at least two occasions entered her private room without providing her with 24 hour notice. The landlord agreed that he regularly visited the basement for various reasons but restricted his activity and use to the common areas only. The landlord denied entering the tenant's room without permission.

The tenant is claiming compensation for the loss of quiet enjoyment during the term of the tenancy in the amount of \$5,000.00. The tenant is also claiming the recovery of the filing fee.

Analysis

Section 4 of the *Residential Tenancy Act*, addresses what the *Act* does not apply to. It states that the *Act* does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation

Based on the above facts I find that the tenant rented a room in the home of the owner/landlord and shared the kitchen and washroom with the owner/landlord.

The circumstances of the dispute do not fall within the jurisdiction of the *Act*, and the application must therefore be dismissed. The tenant is at liberty to pursue other remedies under common law.

Conclusion

The tenant's application is dismissed.

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 13, 2018

Residential Tenancy Branch