



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

The landlord applies for an order of possession pursuant to a ten day Notice to End Tenancy dated May 2, 2018 given for non-payment of rent. She also seeks a monetary award for unpaid rent.

The respondent tenant did not attend the hearing within ten minutes after its scheduled start time at 1:00 o'clock p.m. on June 13, 2018. The teleconference hearing connection remained open during that time in order to enable the parties to call into the teleconference hearing. The call-in numbers and participant codes provided in the Notice of Hearing were confirmed as correct. The teleconference system audio console confirmed that the landlord and this arbitrator were the only ones who had called into this teleconference during that period. The applicant landlord was given a full opportunity to be heard, to present sworn testimony/affirmed testimony, to make submissions and to call witnesses.

This application was originally made under the direct request process but was refused as it was not clear whether the landlord was the owner of the accommodation and whether the accommodation was possibly excluded from the jurisdiction of the *Residential Tenancy Act* (the "*Act*") and its arbitrators, under s. 4(c).

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

The landlord confirms at this hearing that she is the owner of this townhouse, that she lives there with the tenant and one other tenant, and that they share the kitchen, but that she has her own, private, bathroom.

I find that the landlord's situation comes within s. 4(c) and that the *Act* does not apply to her legal relationship with this tenant. As the *Act* does not apply, this arbitrator has no power to consider the application or make any order between the parties.

The landlord's application must be dismissed. She must seek relief in another forum.

She has been referred to the Information Officers at the Residential Tenancy Branch, for further possible guidance.

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