



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Applicant on August 7, 2018 (the “Application”). The Applicant applied for an order ending the tenancy early based on section 56 of the *Residential Tenancy Act* (the “Act”) and for reimbursement for the filing fee.

The Applicant appeared at the hearing. The Respondent did not appear. I explained the hearing process to the Applicant who did not have questions when asked. The Applicant provided affirmed testimony.

At the outset, the Applicant advised that the Respondent had vacated the rental unit and he was no longer seeking an Order of Possession. The Applicant did continue to seek reimbursement for the filing fee.

The materials submitted indicated the Applicant had a room in the same house as the rental unit. At the outset of the hearing, the Applicant confirmed the rental unit is in a house with a number of rooms that are rented out. He confirmed he has a room in the house. He said he does not live at the house and does not stay there overnight. The Applicant said he is at the house three to four times per week. He said the room is an office and that he does not use the kitchen or common bathroom at the house. He said the tenants in the house have their own bathroom facilities. He confirmed that he owns the house.

Section 4(c) of the *Act* 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”.

I am not satisfied based on the testimony of the Applicant that I have jurisdiction in this matter. The Applicant is the owner of the house that the rental unit is in. He has a room in that house that he uses as his office. The house includes a communal kitchen and bathroom or bathrooms. In these circumstances, I find section 4(c) of the *Act* applies and I decline to decide the matter.

I note that I do not find it relevant that the Applicant chooses not to use the communal bathroom or bathrooms and kitchen. The fact that the Applicant has a room in the house where these facilities are communal and presumably available to him if he chooses to use them is sufficient in my view to find that section 4(c) of the *Act* applies.

Conclusion

Pursuant to section 4(c) of the *Act*, the *Act* does not apply and I have no jurisdiction to decide this matter.

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 19, 2018

Residential Tenancy Branch