



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on December 7, 2018. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for the return of the security deposit;
- A monetary order for compensation for loss or other money owed.

The Tenant attended the hearing with a witness. However, the Landlord did not. The Tenant stated that she served the Landlord with the Notice of Hearing in person on August 15, 2018. The witness present confirmed that this occurred. I find the Tenant sufficiently served the Landlord with the Notice of Hearing on August 15, 2018.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant stated that she rents a studio space for \$150.00 a month and it is a place where she goes to do art. The Tenant stated that there is a bathroom and no proper kitchen. The Tenant also stated that she does not live there and it is mainly just a work space for her.

After considering the evidence and testimony before me, I find I do not have jurisdiction to hear this application. In making this determination, I have considered that the "Tenant" only pays \$150.00 per month, and does not live in the space she rents. I also note there is no kitchen and the space is shared with several other artists who also use this as a studio space.

I note the following definitions under the Act:

"tenancy" means a tenant's right to possession of a rental unit under a tenancy agreement

"rental unit" means living accommodation rented or intended to be rented to a tenant

I find this is not a tenancy, as the "Tenant" is not renting living accommodation, and does not have a residential tenancy established with the "Landlord". Given the totality of the situation, I decline jurisdiction on this matter.

Conclusion

I decline jurisdiction on this matter, as I do not find the rental unit in question is living accommodation nor does it constitute a tenancy. The application is dismissed in full without leave to reapply.

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: December 10, 2018

Residential Tenancy Branch