



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This teleconference hearing was scheduled in response to an application under the *Residential Tenancy Act* (the “*Act*”) for the return of a security deposit and for the recovery of the filing fee paid for this application.

The respondent was present for the teleconference hearing and was affirmed to be truthful in her testimony. No one called in for the applicant during the approximately 11-minute duration of the hearing.

As stated in rule 7.3 of the *Residential Tenancy Branch Rules of Procedure*, when a party does not attend the hearing, the hearing may continue, or the application may be dismissed. Although the applicant did not attend the hearing, the hearing continued for the respondent to present testimony regarding jurisdiction as noted below.

Preliminary Matter – Jurisdiction

As some of the evidence submitted indicated that jurisdiction in this matter was in question, this was brought up at the outset of the tenancy. The respondent stated that she is the owner of the unit and rented out one of the bedrooms to the applicant for a period of approximately four months.

The respondent stated that during the time the applicant resided at the unit, they shared a kitchen and bathroom.

Section 4(c) of the *Act* states that the *Act* does not apply to:

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation

I accept the testimony of the respondent that she is the owner of the unit and resided in the unit while the applicant was living there. Accordingly, I find that Section 4(c) of the *Act* determines that the *Residential Tenancy Act* does not apply to this matter and therefore I decline jurisdiction.

Conclusion

I decline jurisdiction as the *Residential Tenancy Act* does not apply to 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 *Residential Tenancy Act*.

Dated: December 21, 2018

Residential Tenancy Branch