



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT MNSD

Introduction

This hearing dealt with the applicant's request pursuant to the *Residential Tenancy Act* (the "Act") for return of her security deposit and reimbursement of the filing fee.

The applicant attended the hearing and was given an opportunity to provide affirmed testimony. The respondent did not attend the hearing. I kept the teleconference line open for the duration of the hearing to allow the respondent the opportunity to call. The teleconference system indicated only the applicant and I had called into the hearing. I confirmed the correct participant code was provided to the respondent.

The applicant testified that she had an agreement with the respondent regarding the occupation of the master bedroom in an apartment unit owned by the respondent. The applicant testified that the respondent was the owner of the apartment unit which included two bedrooms: a master bedroom and a guest bedroom. The applicant testified that the agreement stated that the applicant would occupy the master bedroom and the respondent reserved the use of the guest bedroom for herself. The agreement started on November 1, 2016. The applicant provided a translated copy of the written agreement between the parties which stated:

[Respondent] will lend the master bedroom and all public spaces (including a parking stall) which is located at [property address] to [Applicant]
([Respondent] retained the guest bedroom)...

The applicant testified that the respondent stored possession in the guest room and the respondent stayed at the apartment for one week in October 2017. The applicant testified that she vacated the property in December 2017.

Section 4(c) of the *Act* states that the *Act* does not apply to a "...living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation." The terms of the written agreement between the parties, and the applicant's undisputed testimony, state the guest room was reserved for the respondent's use. Furthermore, the applicant testified that the respondent did reside in the guest room for a brief period of time. I find that the respondent did have use of the guest bedroom throughout the duration of the parties' agreement and the respondent's use of the guest bedroom necessarily implies shared use of the kitchen and bathroom as well. Accordingly, I find that the applicant did share kitchen and bathroom with the respondent so the applicant's accommodation is outside of the *Act*.

Since this accommodation is outside of the *Act*, I have no jurisdiction to consider this matter.

The applicant must bear the cost of her own filing fee, as the *Act* does not apply.

Conclusion

I decline to rule on this matter as I have no jurisdiction to consider this application.

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: March 11, 2019

Residential Tenancy Branch