



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNRL, OPR

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an order of possession, further to having served a 10 Day Notice to End Tenancy for Unpaid Rent on the Tenants; the Landlord also applied for a monetary order for unpaid rent of \$400.00, and to recover the \$100.00 cost of the Application filing fee.

The Landlord and the Tenants appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenants and the Landlord were given the opportunity to provide their evidence orally and respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this decision.

Neither Party raised any concerns about the service of the Application or the documentary evidence. The Tenants said they had received the Application and documentary evidence from the Landlord and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the decision would be emailed to both Parties.

The Parties agreed that the tenancy started on October 15, 2018, with a rent of \$800.00 due on the first of each month, and that the Tenants were to pay the Landlord a \$400.00 security deposit, but failed to do so.

The Parties agreed that from October 2018 to March 30, 2019, the Landlord lived in the residential property and shared the kitchen and bathroom with the Tenants. However, the Landlord testified that on April 1, 2019, he moved to the basement "suite" to allow

the Tenants to have more space and privacy in the upstairs unit. However, the Landlord advised that although the residential property was being renovated, up to and including the time of the hearing, the basement suite was not set up to be an individual rental unit; it does not have a kitchen or shower facilities yet, so the Landlord would still need access to one or both of these facilities.

Analysis

Section 4 of the Act provides:

What this Act does not apply to

4 This Act does not apply to

...

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

I find that the Landlord was sharing a kitchen and bathroom with the Tenants, and therefore, the Act does not apply to this living arrangement.

There is no jurisdiction for me to hear this dispute, so the Landlord's Application is dismissed in its entirety.

Conclusion

The Act does not apply to living arrangements in which the Landlord shares a kitchen and/or bathroom with the Tenants. I find that the Applicant was sharing a kitchen and bathroom with the Tenants, so the Landlord's Application for an order of possession and a monetary order for unpaid rent are dismissed 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: June 05, 2019

Residential Tenancy Branch