



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

On February 21, 2019, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for the Landlord to return of all or part of the pet damage deposit or security deposit, and to recover the filing fee for the Application.

The matter was scheduled as a teleconference hearing. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. All participants in the hearing provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

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

Issues to be Decided

- Is the Tenant entitled to the return of the security deposit?
- Is the Tenant entitled to recover the cost of the filing fee?

Background and Evidence

On January 9, 2019 the parties entered into a tenancy agreement to begin on January 15, 2019 and end on January 31, 2019. The Tenant paid the Landlord the amount of \$809.00 which included a security deposit of \$475.00. At the end of the fixed term, the

tenancy could continue on a month to month basis at a monthly rent of \$950.00 to be paid by the first day of each month.

The Tenant testified that she was renting a bedroom within an apartment where the Landlord resides. The Tenant testified that she shared the kitchen with the Landlord.

The Landlord provided testimony confirming that the Tenant was renting a bedroom in the apartment and was sharing the kitchen. The Landlord submitted that it was a roommate situation.

Section 4 of the Act provides 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.

Analysis

Based on the evidence and testimony before me, and on a balance of probabilities, I find as follows:

I find that the Tenant entered into a living arrangement where she was sharing a kitchen with the Landlord. I find that the living arrangement was a room-mate situation and the Act does not apply to the living arrangement.

I find that I have no authority to consider the Tenant's application for the return of a security deposit.

The Tenant's application requesting the return of a security deposit is dismissed in its entirety.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant was not successful in her claim against the Landlord, I decline an order for the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

Conclusion

The Tenant entered into a living arrangement where she was sharing a kitchen with the Landlord. Section 4 of the Act provides 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 decline jurisdiction to hear the Tenant's application requesting the return of a security deposit. The Tenants application is dismissed in its entirety.

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 10, 2019

Residential Tenancy Branch