



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction and Procedural Matters

This hearing dealt with an Application for Dispute Resolution by the applicant seeking remedy under the Residential Tenancy Act (the “Act”) for a monetary order for a return of his security deposit and to recover the cost of the filing fee.

The applicant and respondent attended the teleconference hearing. The parties were affirmed. The participants were informed that based upon the documentary evidence submitted prior to the hearing, I would be required to determine whether the Act applied to the dispute prior to a hearing on the merits.

Issue(s) to be Decided

Does the Act apply to this dispute and do I have jurisdiction to decide this dispute?

If so, is the applicant entitled to monetary compensation?

Background and Evidence

The respondent testified that he is the owner of the property in a condo building, a two bedroom unit, and that he rents the spare bedroom to other parties, who in turn pay him monthly rent.

The applicant at first said he does not share the kitchen facilities as he only uses the microwave; however, in response to my inquiry, the applicant confirmed that he does use the refrigerator and other kitchen equipment.

The landlord submitted a copy of a written agreement relating to the occupancy of the unit in question, which is entitled "Roommate agreement/contract & house rules for (address omitted)".

Analysis

Section 4 (c) of the Act states that the Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. In this case, the applicant confirmed, as noted above, that he shared the kitchen facility with the respondent, who was the owner, during the tenancy.

In light of the above, I find that the living accommodation meets the above criteria for exclusion under the Act, and I therefore decline to find jurisdiction to resolve this dispute.

The applicant is at liberty to seek the appropriate legal remedy to this dispute.

Conclusion

I find the Residential Tenancy Act does not apply to this dispute and I have declined jurisdiction.

I do not grant the filing fee as a result.

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: July 8, 2019

Residential Tenancy Branch