



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT MNDCT

Introduction

This hearing dealt with an application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- A monetary award for compensation for damage or loss pursuant to section 67 of the *Act*, and
- recovery of the filing fee for this application pursuant to section 72 of the *Act*.

Both parties attended the hearing. At the outset of the hearing, the respondent claimed that the rental arrangement was a homestay agreement as the applicant had access to the kitchen and bathroom facilities in the house that were shared between the respondent, who was a co-owner of the property, and the applicant. The applicant claimed that he did not use the kitchen and bathroom facilities on the main level of the property. In support of her testimony, the respondent referred to a hand-written statement provided by the applicant, dated February 14, 2019 in which the applicant stated that:

I am always welcome to and have access to the TV and cooking facilities on the main floor.

The applicant confirmed that the statement was made by him, and in his hand-writing, however he claimed that he had been pressured by the respondent to provide the statement in response to a court matter involving the respondent.

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,

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their version of events.

In the case before me, the applicant, who bears the burden to prove his claims on a balance of probabilities, has not provided any corroborating evidence to support his version of events. The respondent has provided corroborating evidence, which consists of a statement from the applicant, confirming the respondent's version of events. As a result, I find the applicant has failed to establish that his rental arrangement falls within the purview of the *Act*.

As such, I advised the parties that given the circumstances and based on the testimony and evidence before me, on a balance of probabilities, I find that pursuant to section 4 of the *Act*, the *Act* does not apply to this rental arrangement. I therefore declined to hear the matter as I have no jurisdiction to render a decision in this matter.

Conclusion

I decline to hear 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: September 19, 2019

Residential Tenancy Branch