



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution filed on July 17, 2019 wherein the Applicant sought return of her security deposit and recovery of the filing fee.

The hearing was scheduled for teleconference at 1:30 p.m. on October 29, 2019.

Jurisdiction

During the hearing the Respondent testified that she owns the property and the Applicant rents a room from her. She further testified that she resides in the master bedroom of the home and shares a kitchen and bathroom with the Applicant and six others.

The parties disagreed on how many nights a week the Respondent is at the rental home, however, the Applicant conceded that the Respondent stays at the rental home at least 1-2 times a week. She submitted that as the Respondent uses a post office box in a different community as her mailing address that she believed that the Respondent lives elsewhere and does not *reside* in the rental unit.

The power and authority of the Residential Tenancy Branch is derived from the *Residential Tenancy Act*. The dispute resolution process does not create a court and as such, Arbitrators delegated under the *Act*, do not have inherent powers arising under the common law which are possessed by a judge. Arbitrators may only resolve disputes which fall within the express jurisdiction of the *Act*.

Section 4 of the *Act* provides a list of disputes which are not within a Residential Tenancy Branch Arbitrator's jurisdiction and provides in part as follows:

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,

Based on the testimony of the parties, I find that section 4(c) applies as the parties share a bathroom and kitchen facilities. I therefore decline jurisdiction to hear this matter.

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: October 29, 2019

Residential Tenancy Branch