



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNSD, MNDCT**

Introduction

This hearing dealt with an application filed by the applicant pursuant to the *Residential Tenancy Act* ("Act").

The applicant sought:

- An order for the return of a security deposit or pet damage deposit pursuant to section 38 and
- A monetary order for damages or compensation pursuant to section 67;

Both the applicant and the respondent attended the hearing. Neither party raised any issues with timely service of documents.

Preliminary issue

In the respondent's evidence package, the respondent provided evidence to indicate she is the owner of the rental address and that she shared a kitchen and bathrooms with the tenant. This evidence consisted of floor plans of the rental address and a 2020 Notice of Assessment from the BC Assessment Authority. The applicant testified that the respondent misrepresented the rental address when advertising the accommodation, advising her that she would have a private bath and a separate cooking area. The applicant did not dispute that she and the owner of the rental address shared the living accommodation for the time she lived there.

Section 4(c) of the *Act* states:

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 evidence provided by the respondent and the applicant's testimony, I find the respondent/owner shared her living accommodation with the applicant. As such, I find that the *Residential Tenancy Act* does not apply to the living situation and I do not have the jurisdiction or authority to hear this matter pursuant to sections 4(3) and 62(1)(b) of the *Act*.

Conclusion

I decline to hear this matter further 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: April 03, 2020

Residential Tenancy Branch