



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: FFL MNDL-S MNRL-S

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for:

- a monetary order for unpaid rent and compensation for monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

Preliminary Matter: Does the Residential Tenancy Branch have jurisdiction to hear the dispute between the parties?

Both parties confirmed the following facts. The landlord rented one of the rooms in his home to the tenant from October 1, 2019 through to October 22, 2020, with monthly rent set at \$800.00 including utilities. Each tenant had their own bathroom, and there are two kitchens in the home. The landlord testified that he mainly used the kitchen on the main floor, but would on occasion use the kitchen downstairs. The tenant confirmed that the landlord used both kitchens in the home, including the one she was using.

Analysis

Section 4(c) of the *Act* reads in part as follows:

- 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,...*

The undisputed testimony of both parties was that the landlord had shared the kitchen on occasion with the tenant during this tenancy. The frequency of use does not change the fact that both parties used this same facility.

Under these circumstances and based on the evidence before me, I find that the *Act* does not apply to this tenancy. I therefore 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: November 26, 2020

Residential Tenancy Branch