



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR

Introduction

This hearing was convened as a result of the Applicants' Application for Dispute Resolution by direct request, made on July 30, 2020 (the "Application") and adjourned to a participatory hearing. The Applicant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- an order that the Respondent return all or part of the security deposit; and
- an order granting recovery of the filing fee.

The Applicant M.C., the Respondent, and the Respondent's Counsel W.L. attended the hearing at the appointed date and time.

Preliminary Matters

At the start of the hearing, the parties testified and agreed that the Applicant moved into the rental unit on December 1, 2019. The Applicants were required to pay rent to the Respondent in the amount of \$850.00 each month. The Applicants paid a security deposit in the amount of \$425.00 to the Respondent. The Applicant moved out of the rental unit on May 1, 2020.

The parties testified and agreed that the Applicants were renting a room in the home which was also occupied by the Respondent. The parties agreed that aside from the room which was occupied by the Applicants, the parties shared every other common area in the home.

Section 4(c) of the *Act* confirms that the *Act* does not apply to living accommodation in which the owner shares bathroom or kitchen facilities with the Applicants. In this case,

the parties testified that she shared all common areas with each other during the tenancy including the kitchen and bathroom facilities.

Accordingly, pursuant to section 4(c) of the *Act*, I find the *Act* does not apply to the agreement between the parties. The Application is dismissed for lack of jurisdiction.

Conclusion

I decline to proceed due to a lack of jurisdiction, and the Application is dismissed without leave to reapply. The Applicants should seek legal advice from their lawyer as to how to resolve this dispute.

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: December 11, 2020

Residential Tenancy Branch