



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

The tenant applies for a monetary award claiming a wrongful eviction, unlawful rent increases imposed during the tenancy and return of her security deposit.

During the preliminary portion of the hearing it was determined (as alleged by the landlord) that the rental unit is a two bedroom condominium apartment owned by the landlord, that he resides there and that the tenant, though given her own bedroom (and possibly a private bathroom) shared kitchen facilities with the landlord.

Section 4(c) of the *Residential Tenancy Act* (the *RTA*) provides:

This Act does not apply to

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,

Though the parties signed what appears to be a conventional residential tenancy agreement in the form provided by the Residential Tenancy Branch and incorporating the mandatory terms found in the *RTA*, it is apparent that the dispute resolution mechanism afforded to landlords and tenants under the *RTA* is not available to the parties in this dispute. They cannot contract into this statutory dispute resolution mechanism.

The parties were referred to the small claims court and the Civil Resolution Tribunal.

As a result, the application is dismissed for lack of jurisdiction.

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: January 12, 2021

Residential Tenancy Branch