



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This matter proceeded by way of an ex parte Direct Request Proceeding, pursuant to section 38.1 of the Residential Tenancy Act (the “Act”) and dealt with an Application for Dispute Resolution by the applicant for a Monetary Order for the return of the security deposit.

On December 21, 2020, the Adjudicator determined that this matter should be adjourned to a participatory hearing, as the issue of jurisdiction was questioned.

Both parties appeared at today’s hearing and gave affirmed testimony. Both parties confirmed they were not making an unauthorized recording of this hearing.

The first issue that I must decide is whether the Act has jurisdiction over the parties in order to proceed with this application.

The applicant testified that they paid room and board to the respondent in the amount of \$750.00 per month, and that they shared the common areas with the respondent, such as kitchen and bathroom. The applicant also paid a security deposit of \$375.00. Filed in evidence is a shelter information form.

Section 4 of the Residential Tenancy Act States

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,

I accept the evidence of the applicant that they paid room and board to the respondent. However, the evidence of the applicant supports that the Residential Tenancy Act does not apply in this case, as they were renting a room and sharing kitchen facility with the owner of the premise. Therefore, I find that there is no jurisdiction to proceed with this application and I dismiss their application without leave to reapply.

Conclusion

I order that the application is dismissed without leave to reapply due to the lack of jurisdiction under the Act.

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 26, 2021

Residential Tenancy Branch