



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL-S, FFL (landlord) MNSDS-DR (tenant)**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for the landlord to return the security deposit pursuant to section 38;
- An order for the landlord to allow the tenant access to the unit pursuant to sections 32 and 70;
- An order requiring the landlord to reimburse the tenant for the filing fee pursuant to section 72.

Both parties attended the hearing and had opportunity to provide affirmed testimony, present evidence and make submissions. No issues of service were raised. The hearing process was explained.

At the start of the hearing, I informed the parties that recording of the hearing is prohibited under the Rules of Procedure. Each confirmed they were not recording the hearing.

Each confirmed their email address to which the Decision would be sent.

Preliminary Issue – Jurisdiction

The landlord provided evidence that this tenancy involves shared kitchen between the landlord and the tenant. The tenant stated that this was correct.

As stated in the Act, the Act does not apply in circumstances where the tenant shares bathroom or kitchen facilities with the landlord. The applicable section of the Act states as follows:

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...

Accordingly, I decline to hear this matter as I do not have jurisdiction to do so. The matter is dismissed without leave to reapply.

Conclusion

The application is dismissed without leave to reapply

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: August 31, 2021

Residential Tenancy Branch