



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOLLYWOOD MARKET & DELI
(HMD) and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDCT, MNRT, RPP

Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38;
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65.

Both parties attended the hearing via conference call and provided testimony.

At the outset, the landlord stated the Residential Tenancy Branch does not have jurisdiction because this is a shared accommodation. The landlord stated that the property is a mixed use house with a building in which there are 4 bedrooms. The landlord stated that he is the owner and lives in one of the bedrooms while the tenant shared the property living in another room. The tenant disputed this claim arguing that he had a signed tenancy agreement but was never provided with a copy. The tenant also argued that the landlord had provided a written statement to the Ministry detailing the tenancy arrangement, however, the tenant did not submit a copy nor is he in possession of one as it is online only.

Extensive discussion took place in which the tenant confirmed that although the landlord was M.D., the tenant wished to proceed against the named landlord (a business).

Section 4 of the Residential Tenancy Act states in part that,

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 also note during the hearing that the tenant referred to numerous pages of documentary evidence that was not recorded on file. The tenant was directed to inquire with Service BC on their assistance in uploading the tenant's documentary evidence.

In this case the landlord has argued that this is a shared accommodation in which the landlord/owner shared the premises with the tenant. The tenant has disputed this claim arguing that the landlord does not share the premises. I find in this circumstance that the tenant has failed to provide me sufficient evidence of a landlord/tenant relationship as opposed to the landlord's claim of a shared accommodation. On this basis, I find that the tenant's application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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: September 07, 2021

Residential Tenancy Branch