



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNETC, MNSD, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking the following relief:

- a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement;
- a monetary order related to a notice to end the tenancy for landlord's use of the property;
- a monetary order for the return of the security deposit; and
- to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing and each gave affirmed testimony. The parties have exchanged all evidence, and were given the opportunity to question each other and to give submissions.

During the landlord's testimony, the landlord advised that the *Residential Tenancy Act* does not apply to this tenancy because the tenant shared bathroom and kitchen with the landlord. The landlord also testified that she has lived at the rental home since 2005, but spent time with family in the Lower Mainland due to 6 car accidents. The landlord has a bedroom and an office in the rental home, and would rent out her room on Air BNB.

The tenant testified that he started to work remotely from home on August 10, 2020 so was home most of the time and never saw the landlord in day-to-day living. At the beginning of the tenancy the landlord lived there, but rented out her room for various nights a few weeks to a few months. Between tenants, the landlord left the room door open and it was empty.

I have reviewed the tenancy agreement and other evidentiary material provided by both parties. In May, 2012 the landlord advised the tenant that the landlord lives at the rental unit with 2 other roommates. Two other letters from tenants confirm that the landlord lives at the rental home, and worked at her office desk in the house.

The *Residential Tenancy Act* does not apply to tenancies where the tenant shares kitchen or bathroom facilities with the landlord. It is clear that the landlord has resided in the rental unit and shared facilities for a time, and still occupies the office. Therefore, I find that the landlord shared kitchen and bathroom facilities with the tenant, and I decline 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: May 25, 2022

Residential Tenancy Branch