



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDRL-S FFL**

Introduction

This hearing was convened by way of conference call in response to the Applicant's application for dispute resolution ("Application") under the *Residential Tenancy Act* (the "Act") in which the Applicant seeks:

- A monetary order for unpaid rent pursuant to section 67;
- Authorization to keep the security and/or pet damage deposit pursuant to section 38;; and
- authorization to recover the filing fee of the Application from the respondent pursuant to section 47.

The Applicant and Respondent attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Matter – Jurisdiction of Residential Tenancy Branch to hear Application

At the outset of the hearing, I noted that the evidence submitted by the Respondent indicated the Landlord and Tenant shared kitchen facilities with each other during the tenancy. The Applicant admitted the parties shared kitchen facilities during the tenancy.

Section 4(c) of the 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 find the Applicant and Respondent shared kitchen facilities during the tenancy. As such, section 4(c) of the Act states the Act does not apply to these living accommodations. Based on the above, I do not have jurisdiction to hear this dispute and I dismiss the Application without leave to reapply.

Conclusion

The Residential Tenancy Branch does not have jurisdiction to hear the Application. The Application is dismissed in its entirety.

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 30, 2022

Residential Tenancy Branch