



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDCT, MNSD, MNETC, FFT**

Introduction

This hearing dealt with an 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 the security deposit pursuant to section 38;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given an opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The respondent was assisted by a family member.

In accordance with the *Act*, Residential Tenancy Rule of Procedure 6.1 and 7.17 and the principles of fairness and the Branch’s objective of fair, efficient and consistent dispute resolution process parties were given an opportunity to make submissions and present evidence related to the claim. The parties were directed to make succinct submissions, and pursuant to my authority under Rule 7.17 were directed against making unnecessary submissions or remarks not related to the matter at hand.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The respondent testified that they received the materials and had not served any materials of their own. Based on their testimonies I find the respondent duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Does this matter fall under the jurisdiction of the *Act*?

Background and Evidence

The parties gave undisputed evidence regarding the following facts. This tenancy began on July 1, 2021. The rental unit is a bedroom in a three-bedroom suite in a multi-unit complex. The applicant occupied one bedroom and shared bathroom and kitchen facilities with the owner of the property, the named respondent, and another occupant, the respondent's family member who attended the hearing.

The applicant confirmed that they were renting a bedroom and shared the kitchen and bathroom facilities with the named respondent who resided in the suite in another bedroom.

Analysis

Section 4(c) of the *Act* sets out living accommodations to which the *Act* does not apply. It reads in part as follows:

- 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,...

The undisputed submission of the tenant is that they rented a bedroom in the suite and shared the kitchen facilities and bathroom facilities with the respondent who owns the unit. Under these circumstances, I find that the *Act* does not apply to this living arrangement between the parties. I therefore have no jurisdiction to render a decision in this matter.

Conclusion

I decline to hear this matter as I have no jurisdiction to consider this application.

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 15, 2022

Residential Tenancy Branch