



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for an order of possession, pursuant to section 54.

Tenant LM (the tenant) and landlord KG (the landlord) attended the hearing. Witnesses for the tenant SH and for the landlord NP also attended. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing the attending parties affirmed they understand the parties are not allowed to record this hearing.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5,000.00."

As both parties were present service was confirmed. The parties each confirmed receipt of the application and evidence (the materials). Based on the testimonies I find that each party was served with the respective materials in accordance with section 89 of the Act.

Both parties agreed they had a relationship. The tenancy started on August 01, 2021. Monthly rent in the amount of \$500.00 was due on the first day of the month.

The landlord affirmed the parties lived together as a couple and shared the bathroom and the kitchen. The rental unit is a 900 square feet, two bedroom and two bathroom apartment with one refrigerator and one stove.

The tenant stated the rental unit is a two bedroom apartment and that he did not share the bathroom and the kitchen with the landlord. The tenant testified his self-contained bedroom had a private bathroom, a microwave, a crisper and a hot plate.

Witness SH said the landlord and tenant had a relationship and later moved to separate bedrooms. SH did not visit the rental unit. SH believes that the tenant had a self-contained rental unit.

Witness NP affirmed the landlord and tenant had a relationship and shared the kitchen.

Section 4 of the Act provides:

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 testimony offered by the landlord and witness NP was more convincing and credible than the testimony offered by the tenant and witness SH. Based on the testimony offered by the landlord and witness NP, I find the landlord and the tenant shared the kitchen and the bathroom.

Thus, pursuant to section 4 (c) of the Act, I have no jurisdiction to consider this matter.

Conclusion

I decline jurisdiction to consider this matter.

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 17, 2022

Residential Tenancy Branch