



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP

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 for the landlord to return the tenant's personal property, pursuant to section 65.

Both parties attended the hearing. Witness for the landlord JC 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 all the parties were clearly informed of the Rules of Procedure, including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11, which prohibits the recording of a dispute resolution hearing. All the parties confirmed they understood the Rules of Procedure.

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(1) of the Act.

The tenant affirmed she rented a bedroom in a self-contained rental unit and she did not share the bathroom or kitchen with the landlord but shared them with another tenant.

The landlord testified the tenant shared the bathroom and the kitchen with the landlord and other occupants. The rental unit is a 5-bedroom house and the landlord rents 4 bedrooms.

Witness JC stated that all the tenants and the landlord share the bathroom and the kitchen on the main and basement floors.

The landlord submitted into evidence an email dated August 17, 2022:

I have been renting a room at [rental unit's address]. Everyone in the house shares the kitchen and the bathrooms. [tenant] rented a room next to mine and was aware with this arrangement and share the facilities with everyone, including the owner.

Based on the convincing testimony offered by the landlord and witness JC and the email dated August 17, 2022, I find the tenant shared the kitchen and bathroom with the landlord.

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,

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

After I rendered my decision the tenant laughed and used inappropriate language. I warned the tenant to be respectful and the tenant disconnected from the teleconference hearing.

Conclusion

I decline jurisdiction to consider the tenant's 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: October 28, 2022

Residential Tenancy Branch