



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR-MT, MNDCT**

Introduction

This hearing dealt with an application by the applicant pursuant to the Residential Tenancy Act (“the Act”) for orders as follows:

- more time to dispute a notice to end tenancy pursuant to section 66 of the Act
- cancellation of the landlords’ 10 Day Notice pursuant to section 46
- compensation for monetary loss pursuant to section 67

Both parties attended the hearing with the respondent being represented by respondent JC, while the applicants were represented by applicant SM. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

Both parties confirmed they were not recording the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The applicant confirmed receipt on May 30, 2022 of the 10 Day Notice to End Tenancy (“10 Day Notice”) delivered to him personally. Pursuant to section 89 of the Act the applicant is found to have been served with this notice in accordance with the Act.

The respondent confirmed receipt of the applicant’s notice of dispute as well as the applicant’s evidence package in support of his application. Pursuant to sections 88 and 89 of the Act the respondent is found to have been served in accordance with the Act.

Preliminary Issue - Jurisdiction

There is no written tenancy agreement for the rental property. There was significant disagreement between the parties regarding the dates the tenancy commenced but the respondent and applicant agreed that the tenant paid \$300.00 per month for rent and an additional \$100.00 per month for utilities. The respondent advised that the applicant SM lived in a fifth wheel parked on the respondent's property ("Rental Property"). The respondent, his family, and another tenant live in another residence on the property ("Main Residence"). The applicant SM no longer lives in the Rental Property.

When SM did live in the Rental Property, he shared two bathrooms in the Main Residence with the other tenant, and with the respondent and his family. One bathroom in the Main Residence was exclusively for the applicant, but the applicant SM's shower facilities were in a bathroom in the Main Residence shared by the respondent. The applicant did not use the kitchen facilities in the Main Residence.

Section 4 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,

As the applicant is sharing bathroom facilities with the respondent during the time he was staying in the Rental Property, the Act does not apply to this tenancy. My jurisdiction under the Act is only in respect of tenancies to which the Act applies. This is a tenancy specifically excluded under section 4 of the Act.

I therefore find the agreement between the parties is not a residential tenancy and that the Residential Tenancy Act does not apply. Pursuant to sections 62(1)(b) of the Act, I find I do not have the authority to resolve this matter as it does not arise under the Residential Tenancy Act.

Conclusion

Pursuant to sections 62(1)(b), the Director does not have the authority to determine this matter as it does not arise under the Residential Tenancy Act. Jurisdiction is declined.

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 20, 2022