



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to an application for dispute resolution pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Respondent did not attend the hearing. I accept the Applicant’s evidence that the Respondent was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) by registered mail on March 21, 2022 in accordance with Section 89 of the Act. The Respondent did not collect the mail. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Respondent is deemed to have received the Hearing Package on March 26, 2022, regardless of them not collecting the mail. The Applicant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Does the Act apply to the accommodation?

Background and Evidence

There is no written tenancy agreement. The Applicant occupied a side suite in a house owned by the Respondent. The Applicant shared the bathroom with the Respondent who owns the house.

Analysis

Section 4(c) of the Act provides that the Act does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. Based on the Applicant's evidence of sharing the bathroom with the owner of the suite I find that the Act does not apply to the accommodation. I therefore dismiss the application.

Conclusion

The application is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: November 10, 2022

Residential Tenancy Branch