



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNSD, FFT

Introduction

On May 25, 2022, the Applicant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the *Act*”) for the return of their security deposit, and to recover the filing fee for this application. The matter was set for a conference call.

The Applicant attended the conference call hearing and was affirmed to be truthful in their testimony. As the Respondent did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure require that the Respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Applicant testified that they served the Respondent with the Application for Dispute Resolution, and the Notice of Hearing by Canada Post registered mail, sent on June 15, 2022, a Canada Post registered mail tracking number was submitted into documentary evidence as proof of this service. Accordingly, I find that the Respondent has been served with the necessary documents, in accordance with the *Act*.

The Applicant was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matter – Jurisdiction

At the outset of the hearing, the Applicant testified that they were the tenant of the Respondent, that they rented a room in the Respondents home, where they shared a kitchen and bathroom with the Respondent.

Section 4 of the *Act* defines the types of housing agreement that are not covered by the *Act*. Section 4 of the *Act* states the following:

What this Act does not apply to

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,

Pursuant to section 4(c) of the *Act*, I find that I must decline to accept jurisdiction over the Applicant's dispute with the Respondent.

Although the *Residential Tenancy Act* does not apply to this matter, the parties may further pursue this matter through a court of competence jurisdiction.

Conclusion

For a reason stated above, I decline jurisdiction to resolve this dispute. I have made no determination on the merits of the Applicant's application. Nothing in my decision prevents either party from advancing their claims before a Court of competent jurisdiction.

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: February 13, 2023

Residential Tenancy Branch