



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      RP, ERP, OLC, RR, PSF, FF

### Introduction

This hearing was convened to deal with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"), seeking an order requiring the landlord to make emergency repairs and repairs, for an order requiring the landlord to comply with the Act, for an order allowing a reduction in rent, an order requiring the landlord to provide services or facilities required by law and for recovery of the filing fee.

I note that this hearing was originally scheduled to be heard on May 6, 2013; however prior to that hearing, the respondent requested an adjournment of the hearing in order to complete the repairs. The applicant/tenant ("applicant") agreed and the hearing was adjourned to the present date.

The applicant appeared; the landlord/respondent ("respondent") did not appear.

The tenant provided preliminary information as to the status and location of the respondent, which will be addressed further in this Decision.

*Preliminary issue*-After a review of the evidence and statements by the applicant, a question arose as to whether or not this dispute fell under the jurisdiction of the Act.

### Issue(s) to be Decided

1. Does this dispute fall under the jurisdiction of the *Residential Tenancy Act* so that I have authority to resolve this dispute?
2. Has the applicant established an entitlement for the various requests made on his application listed above?

### Analysis

The rental unit was in the lower suite and the respondent lived in the upper suite.

The applicant said that he did not think the respondent would be attending the hearing. When explaining, the applicant said that the police had come to his rental unit not long

ago, pounding on the door. The police inquired as to whether he, the applicant, knew where the respondent was as there were three warrants out for his arrest.

The applicant said he informed the police he did not know where the respondent was, at which time the police directed the applicant to call the 911 emergency number if the applicant did happen to see the respondent; further the police informed the applicant that the respondent was not the owner of the home.

According to the applicant, he was not aware that the respondent did not own the home, but has since been in contact with the true owners of the home.

The owner did not know that the applicant resided in the lower suite and did not know that the respondent, the tenant of the owners, had entered into a written tenancy agreement with the applicant, according to the applicant.

The applicant said that since the person listed as his landlord in his tenancy agreement had fled the country, to his understanding, he has since entered into a new tenancy agreement with the owners.

### Analysis

The *Act* defines a landlord as follows:

**"landlord"**, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
  - (i) is entitled to possession of the rental unit, and
  - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

I accept the evidence before me that the applicant signed a tenancy agreement with the respondent, that he was unaware that the respondent was not the owner and lacked authority to act for the owner or enter into a tenancy agreement.

I also accept that the owner had no knowledge that the applicant resided in the rental unit.

From the evidence presented in the hearing, I find that the respondent cannot meet the definition of a landlord as defined by the *Act*. There was no evidence that the

respondent had the authority to act on behalf of the owner or as the agent and is excluded by subsection (c) of the definition of “landlord” in the Act.

As a result, I decline to find jurisdiction to resolve this dispute. The parties are at liberty to seek the appropriate legal remedy to this dispute.

### Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute and I have declined 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: May 30, 2013

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Residential Tenancy Branch

