



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, RPP

### Introduction

This hearing convened as a result of the filing of a “Tenant’s Application for Dispute Resolution” on September 11, 2015 by the Applicant, B.G.P.

B.G.P. appeared at the hearing, as did T.D. the representative for the company S.R.G. who was named as a Landlord on the Application for Dispute Resolution. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. 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 Matters

As the Respondent P.E.P. did not attend the hearing, I directed the Applicant to provide me, by no later than November 25, 2015, proof of service on her of the hearing packaging including: the Notice of Hearing, the Tenant’s Application for Dispute Resolution and the Applicant’s evidence. On December 11, 2015 the Applicant sent in registered mail receipts which related to service of other persons, not the Respondent P.E.P. As I am unable to find that P.E.P. was served with the Application Materials, I dismiss B.G.P.’s claim against P.E.P. He is at liberty to reapply.

The Applicant confirmed that his request for return of his personal possessions pursuant to section 65(1) only related to his daughter, the Respondent P.E.P. Accordingly, this claim as it relates to the Respondent D.R.G. is noted as withdrawn.

### Issues to be Decided

1. Does a tenancy exist between the Applicant, B.G.P., and the Respondent S.R.G. such that I have jurisdiction to hear his dispute?
2. If a tenancy exists between B.G.P. and S.R.G., and I am able to hear this dispute, did B.G.P. pay a security deposit to the Respondent S.R.G., and if so, is B.G.P. entitled to its return?

### Background and Evidence

B.G.P. testified that he moved into the rental unit in the early part of 2013, with his daughter, P.E.P., whom he named as a Landlord on his application for dispute resolution. He further testified that he paid a security deposit to P.E.P., his daughter, in the amount of \$325.00 who in turn provided those funds to S.R.G. He did not provide proof of payment of the security deposit in evidence.

The Applicant testified that approximately 14 months after moving in with P.E.P. he moved out as he had been physically abused. He was unsure if P.E.P. continued to reside in the rental unit. In any case, He stated that he provided his forwarding address in writing to the Respondent S.R.G. He did not provide proof of this in evidence.

The Respondent S.R.G. was represented by T.D. T.D. testified that the tenancy was between S.R.G. and the Applicant's daughter, P.E.p. He further testified that the Applicant, B.G.P. was an occupant residing with the tenant P.E.P. not a tenant. According to T.D., P.E.P. moved out of the rental unit at some time in October 2015 and did not provide a forwarding address.

Although I directed T.D. to provide to me a copy of the tenancy agreement between P.E.P. and S.R.G. by no later than November 25, 2015, he did not provide this agreement to me for my consideration.

### Analysis

*Residential Tenancy Policy Guideline 27* provides that the Residential Tenancy Branch does not have the authority to hear all disputes regarding every type of relationship between two or more parties. The jurisdiction conferred by the Legislation is over landlords and tenants.

As such, in order for the Applicant to succeed in this application, the Applicant must prove to me that the *Residential Tenancy Act* applies. In order to find the Act applies, I must be satisfied that the parties entered into a tenancy and that the parties had a landlord and tenant relationship.

The Applicant alleges a tenancy existed between himself and S.R.G. and that he paid a security deposit of \$325.00 to S.R.G. He did not provide any evidence of this.

T.D. denies any tenancy existed between S.R.G. and P.G.P. He claims the tenancy was between S.R.G. and the applicant's daughter P.E.P. and that the Applicant was merely an occupant.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

I find that B.G.P. has failed to prove a tenancy existed between himself and S.R.G. I am persuaded by T.D.'s testimony that B.G.P. moved in with his daughter P.E.P., who was an existing tenant at the time, and that at best B.G.P. was an occupant. Without a tenancy, I lack jurisdiction to hear this claim and as such I decline jurisdiction.

### Conclusion

The Applicant failed to prove a tenancy existed; therefore 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: December 14, 2015

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Residential Tenancy Branch

