



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC FF

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) under the *Residential Tenancy Act* (the “Act”) by the tenants for a money owed or compensation for damage or loss under the *Act* in the amount of \$16,800.00 for “loss of income” plus the recovery of the cost of the filing fee.

The tenants, the landlords and legal counsel for the landlords attended the teleconference hearing and gave affirmed testimony.

### Preliminary Issue

The first issue that I must decide is whether the *Act* has jurisdiction over the parties in order to proceed with the Application.

Legal counsel for the landlords submitted a preliminary argument that the *Act* does not apply to the tenants’ application due to section 4(d) of the *Act* which states:

#### **What this Act does not apply to**

**4** This Act does apply to

- (d) living accommodation included with premises that
  - (i) are primarily occupied for business purposes, and
  - (ii) are rented under a single agreement.

[Reproduced as written]

Legal counsel noted that not only is the primary purpose of the agreement between the parties commercial in nature, but that the tenant’s claim is for “loss of income” related to

the commercial agreement and that the matter should be resolved in Small Claims Court as the *Act* does not apply.

I agree with the landlord's legal counsel as the tenants' application clearly indicates that they are claiming for "loss of income" of \$16,800.00.

### Analysis

Based on the above, and on a balance of probabilities, I find the following.

I find that section 4(d) of the *Act* applies and that the *Act* does not apply to this dispute as a result. As a result, I dismiss this matter due to lack of jurisdiction under the *Act*.

### Conclusion

The tenants' Application is dismissed due to lack of jurisdiction under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: September 19, 2017

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Residential Tenancy Branch