



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      RPP   MNSD   FF

This hearing was convened as a result of an Application for Dispute Resolution, made on August 5, 2018, and amended on November 16, 2018 (the “Application”). The Applicant applied for the following relief, pursuant to the *Residential Tenancy Act* (the “Act”):

- an order that the Respondent return the Applicant’s personal property;
- an order that the Respondent return all or part of the security deposit and pet damage deposit;
- an monetary order for money owed or compensation for damage or loss; and
- an order granting recovery of the filing fee.

The Applicant and the Respondent attended the hearing at the appointed date and time, and provided affirmed testimony.

### Preliminary Issue – Jurisdiction

During the hearing, the issue of jurisdiction to hear the Applicant’s claims arose and was discussed with the parties. These concerns were raised based on the evidence submitted by the Applicant. First, the Applicant submitted a copy of the written agreement between the parties. It confirmed the Applicant rented a single room from the Respondent. This provision was initialed by the Respondent and the Applicant.

Second, included with the Applicant’s evidence was a video depicting the Applicant’s living area. In the video, the Applicant highlighted the fact that the Respondent’s toiletries were in the bathroom area, and that the Respondent’s food and personal belongings were in the kitchen cupboard and freezer. In the video, the Applicant also indicated there was no lock between the Applicant’s living space and that of the Respondent.

Third, several screen prints of text messages were submitted into evidence by the Applicant. In one such message, dated July 22, 2016, the Respondent stated:

*All other spaces other than ur room is common space...so simple ur stuff needs to be controlled...and within ur space*

[Reproduced as written.]

In another screen print, dated August 1, 2016, the Respondent stated:

*...the details of the single room rental were clearly defined and agreed to by you before you moved in...*

[Reproduced as written.]

In an undated text message from the Respondent to the Applicant, he stated:

*Im not sure what is up...but be aware the contract is for a room rental only and your dog is not to be anywhere but your room and all your extra stuff is not to be thrown around the common space including the washroom and kitchen and entrance.*

[Reproduced as written.]

In a further undated text message, the Respondent stated:

*This is a room rental with a shared common area...not a suite rental...*

[Reproduced as written.]

The Applicant and the Respondent were given an opportunity to respond to the above evidence. The Applicant advised that another individual, J., occupied another room in the “suite”. She testified to her belief that they were at liberty to use the “suite” without interference from the Respondent. The Respondent confirmed his understanding that the Applicant rented a room only, and that other areas – the kitchen, bathroom, and laundry – were shared with the Respondent and his family.

Section 4(c) of the Act confirms that the *Act* does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation. In this case, I find it is more likely than not that the parties shared kitchen and bathroom facilities. This finding is supported in the video and documentary evidence submitted by the Applicant.

Accordingly, pursuant to section 4(c) of the *Act*, I find the *Act* does not apply to the agreement between the parties. The Application is dismissed for lack of 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: December 6, 2018

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Residential Tenancy Branch