



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FFT

### Introduction and Preliminary and Procedural Matters

This hearing was convened as the result of the applicant's application for dispute resolution under the Residential Tenancy Act ("Act"). The applicant applied for an order for the return of their security deposit and for recovery of the filing fee paid for this application.

The applicant attended; the respondent did not attend the telephone conference call hearing.

In response to my inquiry, the applicant said he did not know the respondent's address and therefore sent his application for dispute resolution and notice of hearing package to the landlord at an address provided by a fellow roommate.

The applicant said the registered mail was not collected.

I do not find the applicant submitted sufficient evidence that he served the respondent his application for dispute resolution and notice of this hearing in a manner required by the Act, as he confirmed he did not have personal knowledge of the respondent's current address.

I, however, also reviewed documentary evidence submitted prior to the hearing and dealt with another issue as well, as more fully set out below.

### Issue(s) to be Decided

Does the Act apply to this dispute and do I have jurisdiction to decide this dispute?

If so, is the applicant entitled to monetary compensation?

### Background and Evidence

The applicant submitted a copy of a document entitled “Occupancy Contract”, which states that the applicant will occupy a bedroom of the listed address. Also in this Contract, under the “Terms of Occupancy”, the applicant is granted “personal privilege” to occupy an allocated bedroom, share the kitchen, the living room and bathroom with fellow housemates and the respondent, listed in the Contract as “host”.

The applicant said that he confirmed that the respondent here is renting the house from a corporate owner, but that the respondent never lived in the home while he was there.

### Analysis

Section 1 of the Act defines a landlord, in relation to a rental unit, as the owner, the agent for the owner, or someone on behalf of the owner who permits occupation of the rental unit and performs duties under the Act or the tenancy agreement. Additionally, a landlord is someone other than a tenant occupying the rental unit, who is entitled to possession, exercises any of the rights of a respondent under a tenancy agreement or the Act, and is a former landlord.

I accept the evidence before me that the respondent here is a tenant of the owner.

In addition, I find that the respondent cannot meet the definition of a landlord as defined by the Act. There is no evidence that the respondent has 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.

Additionally, I find that the applicant/tenant does not have the rights conferred under the Act to a tenant; for instance, the applicant here cannot request a repair to the rental unit to the owner, or to allow a rent reduction, or request an order changing the locks, among other things.

*Residential Tenancy Policy Guideline Manual*, section 13: Rights and Responsibilities of Co-Tenants provides as follows:

### **Occupants**

Where a tenant allows a person who is not a tenant to move into the premises and share the rent, the new occupant has no rights or obligations under the tenancy agreement, unless all parties agree to enter into a tenancy agreement to include the new occupant as a tenant.

In this case, the respondent allowed the applicant to move into the premises, under an "Occupancy Contract". A new tenancy agreement with the owner of the rental unit to have the respondent added as a co-tenant was never entered into. Therefore, I find the applicant is an occupant as defined under the Policy Guideline and not a tenant and has no rights or obligation under a tenancy agreement.

On this basis I find that the legislation has contemplated this type of circumstance and I find the Act does not apply.

Therefore, I find this dispute as between the parties listed here as landlord and tenant does not fall within the jurisdiction of the Act.

### Conclusion

Due to the above, I decline to accept jurisdiction of the applicant's application and I find that this dispute between the parties is not as between landlord and tenant.

The applicant is at liberty to seek the appropriate legal remedy to this dispute.

I do not grant the filing fee as a result.

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: July 29, 2019

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Residential Tenancy Branch