



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCL FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) by the landlord for a monetary claim of \$701.38 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee.

The landlords and the tenant attending the hearing and were affirmed. The hearing process was explained to the parties and both parties confirmed their respective email addresses. The parties were also advised that the decision would be emailed to both parties.

The tenant stated that they believed they were a roommate under the Act. Accordingly, I advised the parties that I would first determine if I had jurisdiction to hear this dispute.

### Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

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

The parties agreed that the tenant was renting a lower portion of the townhouse. The landlord affirmed that they owned the townhouse and live in the upstairs portion of the townhouse. The parties agreed that the tenant can share the landlord's kitchen upstairs.

### Analysis

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

Section 4(c) of the Act states:

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

##### **4 This Act does not apply to**

**in which the tenant shares bathroom or kitchen facilities  
with the owner of that accommodation,**

[emphasis added]

Given the above, I find the Act does not apply to living accommodation in which the tenant shares kitchen facilities with the owner of that accommodation. Accordingly, I find that the Act does not apply to this dispute. The parties clearly agree that the tenant shared the kitchen facilities with the landlord who also owned the accommodation. Based on the above, I find that there is no jurisdiction to hear this dispute. Therefore, I **dismiss** the landlords' application without leave to re-apply.

As I have no jurisdiction to hear this dispute, I do not grant the filing fee.

### Conclusion

The landlord's application is dismissed due to lack of jurisdiction. I do not grant leave to reapply.

The filing fee is not granted.

This decision will be emailed to both parties.

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: November 1, 2021