



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes

MNSD & FF

Introduction

This hearing dealt with an application by the tenant seeking a monetary claim for the return of his security deposit. Both parties appeared for the hearing.

Preliminary Issue

There is an issue of whether this application can be considered under the jurisdiction of the *Act*. Section 4 of the *Act* states in part;

- 4 This Act does not apply to
 - (e) living accommodation occupied as vacation or travel accommodation

Section 27 of the Residential Tenancy Policy Guidelines Manual also provides the following consideration:

The Residential Tenancy Act² provides that the Act does not apply to vacation or travel accommodation. However; the Act would apply to summer cottages and winter chalets that are rented other than on a vacation or travel basis. For example, a winter chalet rented for a fixed term of one year is not rented on a vacation basis.

As a result not all tenancy relationships fall under the jurisdiction of the *Act*. In the circumstances before me the parties entered into an agreement to rent accommodation for the period of January 16 to 19th, 2009. The rent was based on per diem rate which was different on week days, weekends and holidays. The tenant did not occupy the accommodation as a fixed residence but rather for a short term holiday.

Although I acknowledge the tenant's argument that the landlord charged a security deposit which has not been returned due to a dispute between the parties, the exchange of a security deposit does not bring this dispute under the jurisdiction of the *Act*.

Conclusion

I find that the relationship between the parties is exempt from the *Act* pursuant to section 4 and I dismiss the application.

Dated April 24, 2009.

Dispute Resolution Officer