



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION AND REASONS**

### Dispute Codes:

MNDC, MNSD, RPP, FF

### Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant made application for a monetary Order for return of the security deposit, the cost of belongings not returned, for return of belongings and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral evidence, to cross-examine the other party, and to make submissions to me.

### Issue(s) to be Decided

Is the tenant entitled to a monetary Order in the sum of \$1,125.00 for loss of possessions and deposit paid?

Is the landlord required to return personal possessions to the tenant?

Is the tenant entitled to filing fee costs?

### Preliminary Matters

A preliminary issue arose during the hearing as to whether the applicant in this proceeding has the authority to start and proceed with this application. For the following reasons I find that he did not.

The applicant presents himself as a tenant; however, he is actually an occupant in the same property. The applicant did not provide any documentation to demonstrate that the respondent has the authority to act on behalf of the landlord and to represent the landlord's interests. The respondent provided a copy of a residential tenancy agreement he signed, as the only tenant, with an agent for the landlord.

### Analysis

The *Act* defines a landlord as follows:

**"landlord"**, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
  - (i) is entitled to possession of the rental unit, and
  - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

From the evidence before me I have determined that the respondent, who I will call the "Tenant," had signed a tenancy agreement outlining his responsibilities as a tenant. The applicant, who I call the "Occupant," moved into the rental unit and did not sign a tenancy agreement with the landlord.

From the evidence presented in the hearing, I accept that no tenancy agreement ever existed or was contemplated between the "Tenant" and the "Occupant." As a result the "Tenant's" roommate is considered an "Occupant" as defined in the *Residential Tenancy Policy Guideline Manual*, section 13: Rights and Responsibilities of Co-Tenants:

## **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.

I find that the application does not have merit and that the applicant is not entitled to recover the filing fee from the respondent for the cost of this Application for Dispute Resolution.

## **Conclusion**

The application is dismissed without leave to re-apply as the application lacks jurisdiction under the *Act*.

Dated July 15, 2009.

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Dispute Resolution Officer